

DOCTORAL THESIS

Enemies of the State Framing Political Subversives in Documentary Film

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Enemies of the State: Framing Political Subversives in Documentary Film

by

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A supporting statement submitted in partial fulfilment of the requirements for the
degree of PhD by Published Works

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Abstract

This paper presents an extended analysis of my two recent feature documentaries, *RFK Must Die: The Assassination of Bobby Kennedy* (2008) and *Children of the Revolution* (2010), which seek to challenge state narratives and demystify the lives and actions of three central characters – Robert Kennedy’s convicted assassin Sirhan Sirhan, the German terrorist Ulrike Meinhof and Japanese Red Army leader Fusako Shigenobu.

I explore key issues that arose during the production of these films, and the strategies a documentary filmmaker can use to re-investigate and re-present the lives of political subversives, using Pierre Bourdieu’s ‘field theory’ and Frederic Jameson’s ‘three levels of narrative’ as my theoretical framework.

With *RFK Must Die*, I stress the primacy of the research and writing of documentaries in their power to challenge conventional wisdom and examine the interplay between historian, filmmaker and investigator in finding an alternative history. I explore the historiography of both Kennedy assassinations and the historical reliance on independent filmmakers to re-examine the state’s evidence and present the case for the defence. I also explore what issues affect credible witness testimony and what audiovisual evidence can tell us about a crime scene.

I explore two key elements of *Children of the Revolution*: the decision to tell the stories of Meinhof and Shigenobu ‘through the eyes of their daughters’ and the use of archive concerning their revolutionary movements. I present a case study of my working relationship with Meinhof’s daughter, Bettina Röhl, analysing the complex issues of trust, identity and authorship that arose in telling Meinhof’s story from another person’s perspective. I also discuss the critical misalignment between the cost of archive and the budgets and prices paid for documentaries, and analyse the hypothesis of the recent Hargreaves Report (2011) that the audiovisual archive sector ‘is not fit for purpose for the digital age’.

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Introduction

This paper will present notes and an extended analysis of the two published works in my portfolio, the feature documentaries *RFK Must Die – The Assassination of Bobby Kennedy* (2008) and *Children of the Revolution* (2010), exploring in-depth, key issues that arose during their development, production and distribution.

These detailed notes include an account of the genesis of the films, the nature of the research and research methodology informing them, a discussion of how they contribute to the general advancement of the field of documentary, a review of the relevant literature and the case for these films to be regarded as a coherent body of work which merits the award of a PhD.

Both films flow out of the turbulent events of 1968 and together, they form a coherent body of work seeking to demystify the lives and actions of three central characters – Robert Kennedy’s convicted assassin Sirhan Sirhan, the German terrorist Ulrike Meinhof and Japanese Red Army leader Fusako Shigenobu. All were convicted for political crimes against the state. Meinhof died in prison in 1976 and Sirhan and Shigenobu remain incarcerated, with little hope of parole.

While *RFK Must Die* throws doubt on Sirhan’s conviction, state actors cast him as a political assassin and since 9/11, he has been retrospectively dubbed ‘the first Arab terrorist’ in a revisionist hegemonic narrative that connects him as a Palestinian to the PFLP and their collaborations with Meinhof and Shigenobu. In 1968, Bobby Kennedy represented the last hope for radical political change in the U.S., radical change denied the student movements in Germany and Japan and then sought through Marxist revolution by Meinhof and Shigenobu.

I will examine the historiography of these controversial figures and how film and television history has reaffirmed their convictions in the public mind and allowed the hegemonic view of their actions to go largely unchallenged. As a corollary to this, they have been romanticised by the Left – as victims of injustice, innocent of their crimes or misguided idealists, tortured by the state and driven to suicide. I will retrospectively evaluate the strategies I used to challenge the received wisdom and to undercut the mythology that has grown around these key characters in contemporary political history.

1.1 Literature Review

My research explores the disciplinary areas of documentary theory, history on film and media ethics as they affect the political documentary. Nichols (1991, 1994), Renov (1993) and Winston (1995) reinvigorated critical thinking about documentary in the nineties, with Nichols' developing taxonomy of documentary modes - Poetic, Expository, Observational, Participatory, Reflexive and Performative - particularly influential in tracing the evolution of non-fiction film. Later theorists like Bruzzi (2006) found Nichols' 'family tree' 'breathtakingly simplistic' and crudely linear, arguing that 'hybrid, eclectic modern films have begun to undermine [his] efforts to compartmentalise documentaries' into a 'geneological paradigm' (3).

As Chanan notes, the outmoded idea of documentary objectivity, with its impersonal address and hidden authorship, has been 'revoked by asserting the subjective identity of the filmmaker within the body (or 'text') of the film...what Michael Renov calls 'performing the self', through which the portrayal of the historical world...becomes inextricably bound up with the self-inscription of the filmmaker' (2007: 241). Bruzzi (2006) sees the modern documentary 'as a multi-layered performative exchange' between subject, filmmaker and viewer, arguing authorship and style are now 'intrinsic to documentary' with viewers more attuned to the fluid negotiation between reality and representation, subjectivity, aesthetics and interpretation (9-10).

As Chanan notes, the documentary image is 'both index and icon...as index, the image refers directly to the profilmic scene; as icon, it has the capacity to evoke a host of secondary meanings [and symbolic associations in the mind of the viewer] (2007: 52).' For Renov, documentary taps not just the conscious desire for knowledge of Nichols' 'discourse of sobriety' but also unconscious desires touching on psychoanalysis - what Cowie calls 'the interrelation of the desire for reality as knowledge and as spectacle... and their relation to identification' (Gaines and Renov, 1999: 19).

As Renov notes, documentary has traditionally been 'motivated by a sense of political urgency' from Grierson's 'hammer of social change' to a tool for cultural reinvention (1999: 323). Chanan calls documentary 'a battleground of social and historical truth' dating back to 'Vertov's political newsreels and Shub's historical compilations' (2007:

22, 31). He writes of 'the politics of memory' - the archive as a place 'where society's memory is stored away' and 'the interpretation of historical experience is contested' (2007: 257, 269). The history film brings past experience and present consciousness together, inviting emotional identification with the social actors on the screen to shape collective memory. But memory is also selective and ideology and hegemony control what's remembered and suppressed in the construction of history (Chanan, 2007).

Hayden White coined the term 'Historiophoty' to describe 'the representation of history and our thought about it in visual images and filmic discourse' (1988) and since acting as historical consultant on *Reds*, historian Robert Rosenstone (1995a, 1995b, 2006) has argued the 'history film' can be just as valuable as written history in helping us understand the past. While Smith's *The Historian and Film* (1976) was the first edited collection to address the subject, Rosenstone cites Ferro (1977) and Sorlin (1980) as seminal influences in transforming his view of the history film as a new form of historical thinking, with different 'rules of engagement' (2006: 157) to the empirical truth claims of written history. Neither medium can 'literally recreate the past...[but they bring] facts, images and traces from the past together to create meaning for us today through narrative' (2006: 155).

Rosenstone (2006) accepts filmmakers as historians, citing Ankersmit's (1994) notion that even written history works best as metaphor, transcending historical data. Film trades the 'intellectual density [and] theoretical insight' of the page for the 'experiential and emotional complexities' of the screen (2006: 159), using dramatic reconstruction or an image of 'a landscape today for the way it looked at some time in the past' (2006: 71) to construct 'a simulated past, not a literal reality but a metaphoric one...[which works] as a kind of commentary on, and challenge to, traditional historical discourse' (2006: 9).

Gross, Katz and Ruby's *Image Ethics* (1988) was the first edited collection to debate the moral implications of documentary and Winston (1995, 2000, 2008) has explored the area in great detail since. He notes 'two overarching relationships [that] create the ethical context of everyday documentary filming...the relationship of the film-maker [and their institutional backer] to the participants in the film' and to the audience (2008: 236).

The ethics of history, journalism and documentary share ideals of fairness, accuracy, transparency, authenticity and integrity and abhor deliberate misrepresentation, but documentary is not simply a reporting of facts but, in Grierson's phrase, a 'creative treatment of actuality' (Rotha, 1952: 70). As Winston notes, 'the twin pressures of representing actuality and doing it creatively' (2000: 131) create a tension between ethical reporting and artistic license. Willis speaks of the need 'to differentiate between the accepted grammar of television and dishonesty. TV plays with the truth. It always has done. The selection of shots, editing, lighting, camera angles – all involve choices made by the director. They should reflect reality but are not reality itself' (quoted in Chanan, 2007: 47).

While broadcasting codes of practice regulate the documentarist's relationship to the audience, Winston finds the relationship with participants 'far more pregnant with ethical difficulties' (2000: 158), noting 'the everyday little white lies and omissions that often characterise the 'bargaining' between filmmaker and participant' (2000: 138). In balancing the moral duty of care to a subject with free expression, he suggests filmmakers 'undertake a form of ethical risk assessment' before recruiting their subjects (2000: 158). In 2009, The Center for Social Media published a detailed survey on the issue, *Honest Truths: Documentary Filmmakers on Ethical Challenges in Their Work*, calling for a more open discussion of ethical conflicts in documentary and a shared community code of practice.

1.2 Theoretical Framework and Research Questions

Pierre Bourdieu's 'field theory' (1993, 1998) and Frederic Jameson's 'three levels of narrative' (2002; Chanan, 2000) provide the theoretical framework for this analysis. The field of documentary production is dominated by television, where the commissioning editor mediates between producer and viewer (consumer). Reality TV and factual entertainment represent the 'mass production/consumption' end of the spectrum in Bourdieu's analysis, while 'restricted production' can be applied to the making of creative documentaries like mine (Fowler, 1999; Hesmondhalgh, 2006).

This sub-field of creative documentaries is not autonomous from television. Much of its production activity is sustained by co-production funding from a range of

international broadcasters who have corresponding editorial power. I entered this field with no symbolic capital in documentary but cultural capital gained from developing and producing drama work in the film industry - assimilating the habitus of cultural production - and 'new evidence' to overturn conventional wisdom about the past.

I will outline how I leveraged the symbolic capital of BBC and Guardian coverage of this new evidence to complete *RFK Must Die* independently outside the commissioning system. I will also discuss the complex negotiation between filmmaker, commissioning editor and contributor behind *Children of the Revolution* - a clash between the habitus and doxa of documentary producers and the asserted rights of a journalist and author in another field of cultural production.

Jameson applies his three narrative levels to documentary in *Talking Film with Fredric Jameson* (Chanan, 2000). The first ostensible level is the content of the film, the filmmaker 'exploring pieces of reality and de-familiarising them' (2000: 8). The second level, invisible to the audience but 'present all the time and what the film is really about, is the drama of the documentary film-maker [making the film and] doing something to [the] clichés or conventions [of the subject]' (2000: 8). On Jameson's third level are the categories and classifications that inform this unseen struggle - the obstacles in the public consciousness to be overcome to successfully re-present the subject.

The categories to be overcome in *RFK Must Die* are the classifications and pre-dispositions around the Kennedy assassinations and the wider notion of 'conspiracy theory', which is used to control the discourse. The habitus of the print or broadcast journalist is to sneer at 'conspiracy theories', regardless of their merits or evidentiary value, reinforcing and reproducing the domination of state versions of history in the discourse around a subject already debased in the political and cultural memory. I narrate the film as chief investigator, aiming to satisfy Chanan's two criteria for a successful documentary:

One which gives you the sense that you are taking the viewer into a space where...I almost want to evoke Richard Leacock's phrase about gathering data that can be used to figure out what the hell is going on. And another type, not un-associated with that, but which is probably more explicitly political, which is giving somebody a voice to speak.

Both processes are present in the film as my investigation makes visible Jameson's second level while de-familiarising the subject with new evidence and witness testimony.

Many of the issues explored in *RFK Must Die* re-emerge in a more complex and challenging set of circumstances in my later work, *Children of the Revolution*, an archive-driven film exploring the lives of revolutionaries/terrorists Ulrike Meinhof and Fusako Shigenobu through the eyes of their daughters Bettina Röhl and May Shigenobu as they move from student radicalism towards military action.

Categories of 'terrorism', 'revolution' and 'freedom fighting' are projected onto the daughters and Jameson's three levels play out off-screen, as Bettina seeks to escape categorisation and correct the fictional Meinhof created by the German Left (Jameson's third level) by imposing a complex set of conditions on the filmmaker in exchange for her co-operation (Jameson's second level). The outcome of this negotiation had a significant effect on the content of the film.

My central research question across both films is: What strategies can a documentary filmmaker use to re-investigate and re-present the lives of political subversives mythologized by the state and a compliant media?

This main research question constitutes a number of secondary questions:

- (1) What strategies can be used to challenge the factual basis of state narratives and traditional historical sources?
- (2) What can audiovisual evidence tell us about a crime scene?
- (3) What are the implications and challenges of making a film from another person's perspective?
- (4) What are the industrial obstacles to accessing audiovisual evidence of the past and is the archive footage sector fit for purpose in the digital age?

These research questions are discussed systematically in four separate chapters and are organised chronologically, tracing the genesis of each film, the research and production

process, the historiography of the subject, key issues relating to my use of archive, and each film's reception.

In Chapter 2, after outlining the genesis of *RFK Must Die*, I will discuss at length the research process by which I reinvestigated the factual record from first principles. I will examine the interplay between the roles of historian, filmmaker and investigator in researching such a subject and the research strategies used by filmmakers before me.

I will argue that the originality of research and writing in documentaries directly affects their power to challenge the conventional wisdom and elicit credible witness testimony. I will also discuss the value of interviewing witnesses many years after an event – while retrospective testimony is subject to contamination and the vagaries of memory, it can create a powerful dialectic with the often biased interviews conducted during the original investigation.

In Chapter 3, I explore the historiography of both Kennedy assassinations and trace the pattern of media representation of these events over the years, which has always depended on independent filmmakers like myself to re-examine the state's evidence and present the case for the defence. Broadcast television only responds when critical mass for political action has been achieved.

I will discuss the search for visible evidence in the archives and the search for meaning in that evidence, with reference to the Zapruder film and my own found footage of possible suspects in the RFK assassination. I will also examine forensic audio evidence of the gunshots in Los Angeles and archive and access issues in the representation of Sirhan Sirhan, before concluding with a reception analysis of the film.

In Chapters 4 and 5, I explore in detail the two key elements of *Children of the Revolution*: the decision to tell these women's stories 'through the eyes of their daughters' and the use of archive concerning the two women and their revolutionary movements.

If we abandon the traditional device of the omniscient narrator and devolve authority to the voice of the subject and the reception of the viewer, what issues arise in telling these stories from another person's perspective? Chapter 4 presents a case study of my working relationship with Bettina Röhl as we tried to tell her mother's story, analysing

complex issues of trust, identity, authorship and editorial independence that went with that. I will also look at two films by Jean-Luc Godard and Japanese Red Army member Masao Adachi that sought to represent the Palestinian revolutionary movement from the outside.

As over half of my film consists of archive material, in Chapter 5, I trace my journey into the historiographies of my two central characters – the strategies used to overcome the lack of images of Fusako Shigenobu; and Ulrike Meinhof's struggle with her husband/publisher and German television to gain access to the 'public space' (Bourdieu, 1998: 46) and use her symbolic capital as an opinion-leading journalist to give collective voice to the emerging student movement.

The footage arms of large media corporations now control our access to images of these revolutionary figures and their actions from the past. I will discuss the strategies used to research, clear and license this footage and the critical misalignment between the production budgets and prices paid for creative documentaries, and the prices charged by archives.

On a broader level, I will examine public policy towards these repositories of historical evidence and analyse the hypothesis of the recent Hargreaves Report (2011), that 'Copyright licensing [in the audiovisual archive sector] is not fit for purpose for the digital age' (Hooper, 2012: 21).

In Chapter 6, I provide a short reception analysis of *Children of the Revolution* - based primarily on a recent visit to Japan, where the Japanese Red Army is still very much a taboo subject – before my conclusion.

CHAPTER 2: RFK Must Die (2008)

2.1 Genesis of the Work

My film on the Bobby Kennedy assassination began life as an idea for a screenplay. My wife was researching a Kennedy conspiracy programme for Japanese television and I was intrigued by the controversies surrounding Kennedy's death and the claims of convicted assassin Sirhan Sirhan that he has never been able to remember the shooting. The strange tale of two guns, a programmed assassin and a mysterious accomplice in a polka-dot dress offered a fascinating seam of late-sixties political paranoia, capturing a defining moment in American history that marked the death of sixties idealism.¹

I knew very little about Bobby Kennedy and was struck by archive footage of his playful, eloquent charisma, taking to the streets to heal a nation broken by the murder of Martin Luther King and heavy losses in Vietnam. I was not convinced by the official story that Sirhan acted alone, so I started researching the case and soon found new evidence suggesting three senior CIA operatives were at the Ambassador Hotel the night Kennedy died. The facts of the case grew more compelling than any attempt to dramatise them, so I began work on an investigative documentary.

The research discovery that ignited this process can be traced to my perspective as a filmmaker. After some reading on the Kennedy assassinations, I came across an overlooked confession by senior CIA operative David Morales, who claimed he was in Dallas and Los Angeles at the time of both Kennedy assassinations and was somehow involved. I knew hours of footage had been shot by the U.S. television networks at the Ambassador Hotel that evening – Kennedy had just won the California Democratic primary and gave a victory speech to a jubilant crowd moments before he was shot - so working from a published photograph of Morales, I searched for him in the footage to confirm he was there.

¹ This section draws on my article for the Guardian (O'Sullivan, 2006) and the introduction to my book *Who Killed Bobby?* (O'Sullivan, 2008)

Fifteen minutes into a CBS 'raw feed' from the hotel, there he was, standing at the back of the Embassy Ballroom, in the moments between the end of Kennedy's speech and the shooting. Thirty minutes later, there he was again - casually floating around the darkened ballroom as an associate with a pencil moustache took notes.

The source of early research on Morales was retired US army captain Bradley Ayers, who had worked closely with Morales at the CIA's Miami base in 1963, training Cuban exiles to run sabotage raids against Castro. I tracked Ayers down to a small town in Wisconsin and sent him frame-grabs of 'Morales' and another man I found suspicious, seen entering the ballroom from the direction of the pantry moments after the shooting and being waved towards an exit by a Latin associate. Ayers positively identified the first figure as Morales and the second as Gordon Campbell, the Deputy Chief of the Miami station in 1963, who worked alongside Chief of Operations David Morales and was Ayers' case officer shortly before the JFK assassination.

I put my screenplay aside and flew to the U.S. to interview Ayers and he positively identified Morales and Campbell on camera and confirmed their bitterness towards the Kennedys after the Bay of Pigs fiasco. He also introduced me to David Rabern, a freelance operative who was at the Ambassador hotel that evening. After reviewing the footage, Rabern told me he didn't know Morales and Campbell by name but saw them talking to each other out in the lobby before the shooting and assumed they were Kennedy's security people. This was odd. The CIA had no domestic jurisdiction and Morales was supposedly stationed in Laos in 1968. With no Secret Service or police protection, Kennedy was an easy target for what seemed to be an assassination team.

I funded the initial one-week shoot on a credit card and spent the next eighteen months pitching a nine-minute teaser to financiers through a number of experienced industry producers. While I had the 'significant new evidence' commissioning editors crave in revisiting such a well-traversed subject, Bobby Kennedy was not as well-known to UK audiences as his brother and jaded executives were quick to dismiss yet another 'Kennedy conspiracy theory.'

After many near misses with major broadcasters and financiers, my last throw of the dice was approaching the indie funds of BBC Newsnight and Channel 4 News to

make a short segment on the new evidence, to generate momentum for a feature. Channel 4 News (2008) felt it was 'too retrospective' and couldn't see 'what peg would bring it into the news agenda' but Newsnight editor Peter Barron asked for a meeting and two days later, after some adversarial vetting by his sceptical chief investigator Meirion Jones, a twelve-minute film was commissioned and I flew back to the States for the second stage of my shoot.

By now, trawling through microfilm of the police investigation, I had found further photographs of Campbell with a third man, standing centre-stage in the Ambassador Hotel ballroom hours before the shooting. Ed Lopez, a former investigator for the House Select Committee on Assassinations (HSCA), confirmed my hunch that this was senior CIA officer George Joannides. Joannides was called out of retirement in 1978 to act as the CIA liaison to Lopez and the HSCA staff as they investigated the death of John Kennedy. He never disclosed his role as case officer in 1963 for the Cuban exile group that famously confronted Oswald in New Orleans and broadcast his pro-Castro credentials. Lopez positively identified Joannides and urged the CIA to come clean about why he was at the hotel.

Wayne Smith, a Cuban specialist at the State Department who knew Morales at the U.S. Embassy in Havana in the late fifties also instantly identified Morales in the footage. Smith said Morales hated the Kennedys after the Bay of Pigs disaster and could see 'no benign explanation for why he would be there...Bobby Kennedy is assassinated and David Morales is there? The two have to be connected' (*RFK Must Die*, 2008).

On November 20, 2006, Newsnight broadcast my twelve-minute segment and a two-page feature detailing my investigation appeared in the Guardian. Within hours, I had a U.S. DVD deal for a feature documentary and the Guardian story was the third most-viewed article on their website that week. With the publicity and legitimacy conferred by the BBC and Guardian coverage, a book deal soon followed from Union Square Press, a New York publisher specializing in books by whistleblowers.

Newsnight agreed that, after transmission, I could retain rights to the interview footage and a month later, I went back to the U.S. to shoot my final interviews with other key

witnesses. The U.S. DVD deal with MPI financed the editing of the feature and a sales agent advance cleared the cost of licensing worldwide rights to the archive material.

The upside of this jigsaw financing was that I retained total editorial control. The film was made outside the television commissioning process, so I had complete freedom to make the film I wanted. The acquisition executive at MPI gave me notes but I was free to respond to them as I wished. At the same time, without the legitimacy conferred by Newsnight and the Guardian, I doubt I would have completed the film and I was very conscious that the feature would be judged in the context of the earlier BBC piece.

The resulting feature documentary *RFK Must Die* was framed as a first-person narrative, the story of my journey as rookie investigator, trying to parse witness testimony and make sense of the evidence I found. The content of the film was dictated by my shoestring budget. I couldn't afford to license previously recorded interviews, so the scope of my argument was determined by witnesses I interviewed myself. As a rule, I relied on public domain archive sourced at the Kennedy Library and only licensed commercial archive that had important evidentiary value.

As I edited the film, Washington Post journalist Jefferson Morley and Salon.com founder David Talbot were commissioned by the New Yorker to follow up my Newsnight story with their own six-week investigation, setting out like a latter-day Woodward and Bernstein to nail down the CIA identifications and solve the Kennedy assassinations. As my own resources were spent, I was happy to share my research with them as they interviewed friends of Joannides in Washington and two daughters of Morales in California. Slowly, the balance of evidence began to tip away from the earlier positive identifications and counter to the thesis of my Newsnight film. I couldn't ignore this new evidence, so I included it in the final section of the film, even though it introduces a sense of anti-climax.

The 139-minute cut that went out on DVD in the U.S. in November 2007 was cut down to 102 minutes for the UK release in May 2008 and made available as a shorter 52' edit for television. After completing the film, I began writing up my investigation in the book *Who Killed Bobby? The Unsolved Murder of Robert F. Kennedy*, which was published on the fortieth anniversary of the assassination in June 2008.

2.2 Research Process and Methodology

My research into the CIA figures allegedly seen at the hotel was set within the wider context of researching the case as a whole - the original police investigation, the trial of Sirhan and other evidence that has emerged since 1968. This huge body of data had to be evaluated and digested before the working hypothesis of CIA agents at the hotel could be refined. There were three main stages to this process:

- (1) Secondary research on the textual records of the assassination: reviewing and cross-referencing 50,000 pages of LAPD investigation files on twenty-seven rolls of microfilm at the British Library; 20,000 pages of FBI files on PDF; the transcript of the Sirhan trial and subsequent books on the case or investigations by private researchers.
- (2) Primary research, interviewing witnesses to the assassination - having assessed their original testimony - or those who knew possible suspects in Robert Kennedy's murder.
- (3) Secondary research on the audiovisual records of the assassination, exploring the historiography of the case and over one hundred hours of footage recorded at the Ambassador Hotel that evening.

Reviewing the textual record and the original witness testimony revealed the highly politicised and subjective nature of the official investigations that underpin the state narratives around the Kennedy assassinations, and raised a research question I will discuss for the remainder of this chapter: what strategies can be used to challenge the factual basis of state narratives and traditional historical sources?

In Chapter 3, I will explore what audiovisual evidence can tell us about a crime scene and how industrial obstacles affect the representation of a figure like Sirhan Sirhan.

As the historian Donald Watt notes, on most historical subjects, 'there is infinitely more written evidence than visual material' (1976: 170), so first, this must be tamed and the subject at hand comprehensively understood. In *The Historian and Film* (1976),

the first collection of essays on film as history, Watt and television producer Jerry Kuehl debate History on the Public Screen and the historian's relationship with the filmmaker in the making of historical documentaries.

Watt introduces two 'false problems' that need to be cleared away before considering the collaboration of historian and filmmaker. The first is that 'the historian's main concern is accuracy; the producer...is concerned with entertainment.' The unspoken premise of this is that 'to be entertaining, it is necessary to distort or misrepresent. A good lie...is always more entertaining than a dull truth.' Watt's second proposition is that the historian 'is concerned only with words', the producer with images (1976: 169).

As the historical documentary has developed since 1976, I think these are actually very real problems and one critical issue is the research and writing of documentaries – who does it and how much time and resources do they have? The funding of long-term investigations by newspapers or broadcasters is increasingly rare. The relatively fast turnaround of the commissioning system works against it. What Watt says about visual research in 1976 still applies to research in general today: 'Much of the most essential work, the actual discovery of visual material, is the task of the lowly and underpaid researchers...often bright graduates fresh from university with degree qualifications only vaguely relevant to the subject' (1976: 172).

The rise of the celebrity historian provides an easy solution to this research problem. Acknowledged experts in their field like Niall Ferguson, Simon Schama, David Starkey and Michael Wood bring their depth of knowledge and media profile to a project and write and present historical series in conjunction with a lucrative book deal.

While presidential historians line up to assess the Kennedy presidency, since William Manchester's *The Death of a President* (1967), academic historians have shown very little interest in the Kennedy assassinations as events in themselves. This may be changing - Douglas Brinkley recently chaired a panel on the assassination on C-SPAN at the Mid-America Conference on History (*Assassination of President Kennedy*, 2012). Panellists included Gerald McKnight, professor of history at Hood College and author of *Breach of Trust: How the Warren Commission Failed the Nation and Why*; and historian David

Kaiser, a professor at the Naval War College, whose pro-conspiracy book *The Road to Dallas* was published by Harvard University Press.

But in the RFK case, there is an academic vacuum - no professional historian has published work on the case. The late political scientist Philip Melanson was the most respected author on the subject and the perennial 'talking head' interviewed by cable documentaries, but as I started work on my film, he was dying of cancer.

In this context, I agree with Kuehl (1976) that a filmmaker, with sufficient time and resources, is just as qualified to research and make informed judgements about the veracity of historical evidence as a historian, particularly in a criminal case where neither has professional training and there is an academic research vacuum.

Many of the criteria prized by a historian approaching a subject equally apply to the criminal investigator taking on a new case. Former intelligence operative David Rabern, who appears in my film, co-authored the standard text for students training to be a security professional. An investigation must be 'objective, thorough, relevant, accurate, and current', write Muuss and Rabern (2006: 35-36). 'An investigator is a seeker of truth...[and] must adhere to the principles of honesty, goodwill, accuracy, discretion and integrity' and not let personal bias cloud their judgement of the evidence in establishing the facts of a case (2006: 38-39):

Being objective requires that the investigator be willing to accept any fact, regardless of its significance to preconceived ideas...[and not] persisting in accepting a version of the facts contrary to, or unsupported by, the actual findings.

(2006: 39-40)

The research methodology and habitus of the investigator, filmmaker and historian thus share common values but serve different masters. The investigator frames the truth for the client or the courtroom, providing, like the historian, a neutral summary of the evidence, free of editorializing and personal prejudice. The filmmaker frames the story for the commissioning editor and the audience, conscious of previous films on the subject and the need to provide a fresh angle or a strong authorial point-of-view. The historian may lag behind the more investigative disciplines, delaying acceptance of new data until they are peer reviewed.

Two notable directors from the sixties show how filmmakers can turn amateur historian and conduct historical research themselves. Peter Watkins and Emile de Antonio did all their own research for *Culloden*, *The War Game* and *In The Year of the Pig* respectively.

Watkins conducted three months of research for *The War Game*, preparing a script 'about half the size of the London telephone directory' to draw on during the shoot. Watkins found 'an extreme dearth of literature available to the public about the Third World War...because nobody had ever collated all the information into an easily accessible form' (Rosenthal, 2005: 112-5). He met with biologists, physicians and radiologists, read strategic studies and reports from Hiroshima, Nagasaki and Dresden, and compiled the necessary technical data himself (Rosenthal).

According to Streible, Emile de Antonio spent two years researching *In The Year of the Pig*, reading 'over two hundred books on the history and geopolitics of Indochina and Vietnam...creating a conceptual timeline that became the structure of his documentary, [writing out] key historical events and concepts on an enormous sheet of paper...effectively serving as his storyboard' (2005: 2).

In reply to Watt, Watkins and de Antonio are filmmakers very much concerned with the accuracy of words and text. Their detailed scripts dictate the visual material as they develop a counter-thesis to the official story, which adheres to the facts while cohering into a plausible alternative narrative. I share the rigorous, immersive approach to historical research of Watkins and de Antonio. In making a film about a political murder, accuracy and fact checking are paramount. The collated research for my film was later published in my book *Who Killed Bobby?* Reviewing it for the Irish Times, Richard Aldous, head of History and Archives at University College, Dublin, wrote:

Historians in general tend to subscribe to "cock up" rather than "conspiracy" theories...O'Sullivan recognises this attitude in readers and so takes a patient approach to his task...[calculating] that while a slick telling might entertain, it will not convince. Rather, like a mathematician showing his workings, he gives us all the painstaking detail. And, as in a "police procedural" crime novel, so the evidence begins to mount...O'Sullivan's understated tone adds plausibility to the argument. He may or may not be right, but this is a serious attempt to raise important questions about Kennedy's death.

(Aldous, 2008: 11)

I think this is a fair reflection of my approach to both book and film, conscious of the scepticism, patiently building a counter-argument, step by step. My argument here is that the most richly informed and passionately argued historical documentaries spring from the filmmaker's deep immersion in the research and writing of the material. Who does the research defines how much reverence is accorded the historical evidence and how new primary research can shape an alternative history in the writing of the film. Errol Morris did his homework on Robert McNamara before interviewing him for *The Fog of War*. Morris was the first researcher to access McNamara's research reports on the firebombing of Japan in World War Two and McNamara told him he was 'one of the very, very few people who he had talked to that had actually read his books' (Bloom, 2006: 384).

My struggle to get to the bottom of the RFK assassination echoes Morris' fascination with murder cases as 'historical narratives'. Morris identifies himself as a filmmaker, detective and journalist, pursuing stories obsessively 'beyond the dictates of common sense...disappearing down rabbit-holes, but always in the pursuit of truth.' His investigations start 'with his puzzlement over details – details that didn't make sense...What is going on here? What does this mean? What really happened?' (Morris, 2010).

Underlying the deep research of these filmmakers is a shared conviction that traditional historical sources cannot be trusted. We can only change the public perception of these events by reassessing all available evidence and distributing the results to a wide audience.

As Chanan notes, as well as suppressing documents, the official version of events can be more subtly enshrined in national memory 'by means of ideological dissuasion, the pressures of conformism and conventional wisdom, the doxa of self-censorship' (2007: 258). Alternative interpretations of history are dismissed as 'conspiracy theory' and kept off the news agenda until they attain critical mass online. For a thorough critique of journalism's role in shaping our perception of the JFK assassination, see Zelizer (1992).

The political and institutional bias at work in these investigations is neatly captured in a memo written three days after the JFK assassination by Nicholas Katzenbach, who as acting Attorney General in the absence of Robert Kennedy, oversaw the FBI

investigation. The memo to President Johnson's Press Secretary Bill Moyers reads:

1. The public must be satisfied that Oswald was the assassin; that he did not have confederates who are still at large; and that the evidence was such that he would have been convicted at trial.
2. Speculation about Oswald's motivation ought to be cut off, and we should have some basis for rebutting thought that this was a Communist conspiracy or (as the Iron Curtain press is saying) a right-wing conspiracy to blame it on the Communists. Unfortunately the facts on Oswald seem about too pat - too obvious (Marxist, Cuba, Russian wife, etc.). The Dallas police have put out statements on the Communist conspiracy theory, and it was they who were in charge when he was shot and thus silenced.
3. The matter has been handled thus far with neither dignity nor conviction. Facts have been mixed with rumour and speculation. We can scarcely let the world see us totally in the image of the Dallas police when our President is murdered.

(Katzenbach, 1963)

This was the political agenda that shaped the Warren Commission and its report: how to stop the United States showing an unacceptable image of itself to the world, damaging its prestige; and how to 'cut off' the threat of nuclear war if a plot involving the Cubans or the Russians was detected.

In 1966, attorney Mark Lane's bestselling critique of The Warren Report, *Rush to Judgement*, exposed its many flaws and proclaimed a monumental cover-up. Lane's book was soon turned into a feature documentary by Emile de Antonio, in which Lane presents the counter-argument. In a letter to the BBC accompanying a rough cut of the film, de Antonio made clear his editorial position: 'We have tried to be honest, but not objective. This is the case for the defence of Oswald' (quoted in Lee, 2005: 22).

The three criteria cited by Watt in judging a historical documentary are a comprehensive treatment of the subject; which is objective and accurate; and where facts are presented and events described 'in accordance with the present state of historical knowledge'. The film should have no glaring omissions and show 'no recognisable and obvious bias. It must seem to understand rather than to condemn' (1976: 174).

We can see the difficulty faced by Lane and de Antonio if we apply Watt's criteria to the Warren Report: Was it comprehensive, accurate and impartial? No. Its twenty-six volumes appear comprehensive but the FBI and CIA withheld critical information to safeguard 'national security' and the state agenda. Commission member Allen Dulles withheld his knowledge of CIA assassination plots against Castro that provided a possible motive for Cuban involvement in Kennedy's death, for example.

The Commission's work, as Epstein notes, illustrates the 'institutional problem a government has when it searches for truth. The problem of trying to have an autonomous investigation free from political interference...[while] dealing with a political problem' – restoring public confidence and allaying rumours and conspiracy theories (A CBS News Inquiry: *The Warren Report, Part 3*, 1967). In this context, the only way Lane and De Antonio can give the public a rounded view is to answer the case for the prosecution with the case for the defence.

The official history of Bobby Kennedy's murder is enshrined in the ten-volume report of the Los Angeles Police Department, the basis for court proceedings against Sirhan. The investigation was overseen by a handful of senior LAPD officers, under huge pressure to avoid another Dallas and solve the case quickly. After Sirhan's conviction, LAPD Chief Edward Davis claimed, 'it was an open-and-shut case, right from the beginning; with all of the witnesses and the physical evidence' (*The Second Gun*, 1973).

While the Warren Report was published in full in 1964, the LAPD report was suppressed for twenty years and not publicly released until 1988 after a concerted campaign by Philip Melanson and shooting victim Paul Schrade.

When the report was finally made public, the California State Archivist acknowledged glaring flaws in the original investigation yet the report is still used as the de facto history of the case in Sirhan's parole hearings today. Chief Davis compared the release of the police investigation files in 1988 to 'opening up a collection of pornography to a bunch of sex-hungry pornography addicts. They're going to fondle the gun, touch the wood, stick their fingers in the bullet holes...' (quoted in Melanson, 1991: 129).

As the released files show, the bullet holes in the pantry door frames were, in fact, no longer available for examination because this crucial evidence had been destroyed by

the LAPD in 1969 before Sirhan's appeal began. Physical evidence of extra bullet holes in the pantry would prove two guns were involved. On issues concerning possible conspiracy, many key decisions were based not on the evidence, but on an institutional bias to cover up, shut down or destroy contentious material.²

Without the political will or investigative resources to set the record straight, history falls into line with the state's case against Sirhan. Just as the police quickly concluded it was an open-and-shut case, so historians are quick to accept the official reports of these crimes. Once history is written, the evidence and calculations behind it are suppressed - over fifty thousand pages of records relating to the JFK assassination remain classified (Morley, 2011).

The recent findings of the Hillsborough Independent Panel show how vulnerable such a closed investigation is to manipulation and agenda-led conclusions that use 'black propaganda' to deflect blame away from institutional mistakes. As the late Washington Post proprietor Phillip Graham called journalism 'a first rough draft of a history that will never be completed about a world we can never really understand' (Graham, 1998: 324), so the official reports on these assassinations should be seen as 'a first rough draft of a history' limited and constrained by the issues and agendas discussed here.

My approach to *RFK Must Die* was similar to de Antonio's on *Rush to Judgement* - to critique the state history of the assassination; explore alternatives; bring new insight and evidence to the subject; and distil a complex story to an engaging narrative, ensuring accuracy without suffocating detail. My focus was primarily on issues that still had relevance if the case were to be reopened today - the case for the defence. My opening lines in the film declare my position: 'Before I started making this film, I knew nothing about Bobby Kennedy...This is the story of Kennedy and his assassin. The official story - the evidence against - and the others who may have been involved' (*RFK Must Die*, 2008).

² See Serrano interrogation below

2.3 Witness Memory

The Sirhan case concerns the workings of memory and the manipulation of the human mind: Sirhan's memory block and psychiatrists' attempts to overcome it. The fallibility of memory was also a prime concern when interviewing eyewitnesses to the assassination and asking them to recall events from almost forty years before.

Rush to Judgement is an early example of a documentary driven by witness testimony. As Bruzzi notes, 'The difference between the Zapruder film and *Rush to Judgement* is the difference between the event and memory, between a filmed representation of a specific truth and...memory presented, within its prosecutorial framework, as testimony...the human eye replaces the mechanical eye as the instrument of accurate or convincing memory' (2005: 429).

Witness testimony helps us interpret the physical evidence and fill in gaps in the audiovisual record. As Bruzzi notes, eyewitness testimony can lead to a series of subjective truths, 'not a single underpinning truth' (2005: 429). Taken as a set, these can support other evidence but are also open to manipulation and distortion, as filmmakers cherry-pick testimony to support their argument.

In exploring strategies to elicit credible witness testimony, a key consideration is consistency – do witnesses change their story over time, embellish what they remember or contaminate their original memory with other witness testimony, creating a false narrative?

When I reviewed an interview with one elderly witness, Frank Burns, it was clear that what he said matched almost word-for-word what he had written in an affidavit in 1976. This strikes me as a perfectly valid strategy on his part – I am going to re-enact for you now the clear perception I had of this event in 1976, eight years after the fact. While bringing witnesses back to the crime scene can enhance their recall of the shooting ('contextual reinstatement'), the Ambassador Hotel was being demolished by the time I began filming, so instead we re-enacted the assassination in Burns' living-room, with a lighting case as Robert Kennedy. It was visually crude but animated Burns' testimony and his conviction that Sirhan could not have fired the fatal shot described in the autopsy because 'he never got that close' (*RFK Must Die*, 2008).

The act of putting these witnesses on camera, as oral and visual history, is important, particularly in the case of Sandra Serrano, who had not appeared on camera since the night of the shooting. Interviews conducted soon after the event are more valuable as memory is fresher in the mind and less prone to contamination; but later interviews can respond to new evidence and help document these events in detail while they are still a living memory.

It's much easier to assess witness testimony when, like a jury, you can see and hear the witness in person, rather than relying solely on written statements. Reading a face; gauging non-verbal responses to questions; hearing the conviction or uncertainty in the human voice; getting a sense of character and motivation are all central to the perceived credibility of a witness. Just as the police use polygraphs and voice stress analysis to detect deception by charting physical impulses in the nervous system and 'micro tremors' in a person's voice in response to questioning, so the audience reads these audiovisual stimuli in a contributor's response. But as with a jury, what these non-verbal signals say about a witness is highly subjective and open to interpretation.

While working on *The Thin Blue Line* (1988), Errol Morris (2010) initially saw the camera as 'an obstacle in a *real* investigation':

It turned out to be...a very powerful tool for gathering evidence. How could I have predicted that in the course of an interview, one witness after another would give evidence that they had committed perjury? This evidence could have been produced with a notebook and a pen, but there was something powerful and arresting about seeing it on film.

The witness testimony in my film centres not on the identification of Sirhan as the assassin per se but on other important details – the position of Sirhan's gun at the time of the shots; Sirhan's position relative to Kennedy; the sequence of shots themselves; and the actions of possible conspirators.

In gaining access to witnesses, my outsider status as a non-American helped, as did my BBC credentials, Irish background and relative youth. According to Muuss and Rabern (2006), establishing rapport with victims and witnesses is critical to eliciting valuable testimony. An investigator should be patient, courteous and sympathetic, with good listening skills and an ability to empathise with the witness, as they rake up emotionally charged memories.

Muuss and Rabern recommend the use of open questions, which 'are narrative in nature and allow witnesses to freely express and emphasise their versions of what they know or think they know' (2006, 64) without interruption and can be followed up with direct questions. They warn misleading information or assumptions inherent in a question can contaminate the original eyewitness memory. The police interviewer may use suggestive questioning, be biased, or exert pressure on the witness to testify a certain way ('retroactive interference').

Sandra Serrano's testimony in my film is a rich illustration of these issues. We see her recall her original memory of the girl in the polka-dot dress within hours of the shooting. We hear her repeat and confirm the key elements of her story with LAPD polygraph operator Enrique Hernandez. We hear the clearly biased Hernandez use suggestive questioning to pressure her into changing her story. And then we see her, thirty-eight years later, stick to her original story, comment on the attempted 'retroactive interference' and give her own insight into her younger self.

The interplay of these three interviews gives us a full, textured picture of what the key witness to conspiracy experienced. On the audiotape of the interrogation, Hernandez, supposedly an objective investigator, tells Serrano 'you can't say you saw something when you didn't see it.' He flatly tells Serrano her statement is wrong and asks her to change it 'in the name of Kennedy' - 'If you love the man...the least you owe him is the courtesy of letting him rest in peace.'

Nothing so effectively lays bare the LAPD approach to the conspiracy aspects of the investigation. Serrano's contemporary testimony also recreates her mindset in the prevailing culture of the time. Hernandez' manipulative browbeating made her feel like a criminal, so she eventually broke down: 'I remember thinking that he was lying. And then thinking, 'No, he can't lie. He's the police, the police don't lie...I remember saying to him, 'Whatever you want me to say, I'll say, okay?...They were the cops, they were the good guys.'

The temptation to confabulate to please the interviewer, to fill in gaps in memory or rationalise what one saw; to make one's role or story bigger than it really was; or to paint a revisionist or post-rationalised picture of what one really did are all important factors to consider in gauging the veracity and reliability of witness testimony.

Since his traumatic interrogation by the LAPD, witness Vincent Di Pierro has strongly supported the official story, positioning himself as the key witness for the prosecution, placing Sirhan much closer to Kennedy than he did in 1968 and dismissing the mystery girl in the polka-dot dress. In the film, I challenge him on these issues. When Di Pierro tells me he resisted police attempts to change his story about the girl in the polka-dot dress, I read him a statement he signed retracting his story and we hear the audio recording of his retraction. The evidence from the archive destroys the credibility of Di Pierro's contemporary testimony yet he continues to insist that the altered story is what he always said he saw. Here, the ideas of Erving Goffman (1990) can be applied to the Presentation of the Self on Camera. How do I see myself and how would I like to be perceived?

The motivations of witnesses to participate in a documentary may be an altruistic desire to contribute to public knowledge or publicise an injustice; or a wish to set the record straight, clear one's name or define one's place in history. What motivates Robert McNamara to be cross-examined by Errol Morris in *The Fog of War?* (2004). The film is structured around eleven lessons McNamara refined in his book, *In Retrospect: The Tragedy and Lessons of Vietnam* nine years earlier. As the film's only contributor, McNamara knows he can control its message, a limited apology that serves his interest.

CHAPTER 3: The Kennedy Archive

After surveying the historiography of both Kennedy assassinations, this chapter will explore what audiovisual evidence can tell us about a crime scene. I'll discuss issues of authenticity and interpretation around the Zapruder film as a prelude to an analysis of the visible evidence from the Ambassador Hotel and a discussion of the only known audio recording of the gunshots that evening. The chapter will conclude with a discussion of the legal and industrial obstacles around representing Sirhan Sirhan, introducing a research question I explore in more detail in Chapter 5.

3.1 Historiography of the Kennedy Assassinations

As Jameson notes: 'History is *not* a text, not a narrative, master or otherwise...as an absent cause, it is inaccessible to us except in textual form, and...our approach to it and to the Real itself necessarily passes through its prior textualisation, its narrativisation in the political unconscious' (Jameson, 2002: 20).

The starting point for an examination of the visible evidence is the historiography of the Kennedy assassinations - how these cases have been historically represented and what long-forgotten evidence, witness testimony or archive material may be lurking in previous work on the subject.

The success of *Rush to Judgement* prompted a swift response from establishment broadcasters. In January 1967, the BBC screened the film in sections, interspersed with studio discussion, in a four-and-half hour special *The Death of Kennedy*. When Walter Cronkite presented A CBS News Inquiry: *The Warren Report* over four nights the following June, Time-Life refused access to the Zapruder film, claiming it was 'an invaluable asset to Time Inc.' (*Part 1*, 1967). Cronkite sharply noted the film was also a valuable asset to the nation in understanding a national tragedy.

When Jim Garrison subpoenaed the Zapruder film during the trial of Clay Shaw in 1969, security was lax and Garrison let Mark Lane make a hundred copies for distribution to universities across the country (Shackelford, No Date). In the wake of the assassinations of King and Bobby Kennedy, campus screenings of the film became

a touchstone for student alienation and dissent as the Vietnam War wore on under Nixon.

Just as *Rush to Judgement* challenged the Warren Report, so Ted Charach's feature documentary *The Second Gun* (1973) helped re-open the investigation into Bobby Kennedy's death in the early seventies, presenting the case for a second shooter for the first time. Gaining traction on the college circuit, the film was nominated for a Golden Globe, more for its dogged journalism than its primitive non-sync filmmaking.

After Washington Post reporting uncovered the Watergate scandal, Nixon resigned and Seymour Hersh exposed CIA/Mafia assassination plots against foreign leaders and illegal domestic spying programmes in the New York Times. In March 1975, as the Senate-appointed Church Committee investigated, the Zapruder film was shown on U.S. television for the first time, tapping into a cultural and political zeitgeist where questioning the political assassinations of the sixties again had currency.

CBS News responded with an in-depth investigation of the Kennedy and King assassinations, presented by Dan Rather, who as a young CBS reporter in Dallas in 1963, had been the first to describe the horror of the Zapruder film to the American public: incorrectly stating that Kennedy's head was thrown violently forward, rather than backwards by the fatal shot – a mistake that has dogged his career.

Rather concluded the two-hour JFK inquiry by calling for full congressional investigations into 'the possible roles of Cubans and organised crime figures' in the assassination and 'what the CIA and FBI didn't tell the Warren Commission and why' about their connections to Lee Harvey Oswald (*The American Assassins, Part 2*, 1975).

A CBS News poll showed only fifteen per cent of Americans believed the official account of the JFK murder set out in the Warren Report. 'Conspiracy theories persist,' said Rather, 'partly because there has been a loss of confidence in government, a loss in public morale' (*Part 2*, 1975).

While making a later CBS Reports Inquiry on the RFK assassination, Rather interviewed Sirhan off-camera for four and a half hours and described him as 'sensitive, intelligent...[and with] a sense of humour. He said not once, but several

times...that he simply does not remember the shooting of Senator Kennedy. He also said that if any other person influenced him in any way to do the shooting, he is not aware of it' (*The American Assassins, Part 4*, 1976).³

The LAPD refused repeated requests for interviews and CBS News lost a legal case to gain access to the 'still secret' LAPD report on the case. A petition brought by CBS and shooting victim Paul Schrade to re-examine the ballistics evidence was granted but the findings were inconclusive. While criticising the LAPD for a lack of thoroughness and openness, CBS concluded that only one gun was fired and that 'barring new evidence to the contrary, that gun most likely was the one held by Sirhan Sirhan' (*Part 4*, 1976).

The pattern here is that all of these investigations were brought about by the investigative journalism of America's leading newspapers or independently financed documentaries. The networks never lead, they always follow, calling for congressional inquiries when critical mass has already been achieved.

By 1978, the assassinations reached the top of the news agenda as the House Select Committee on Assassinations (HSCA) dismissed the Warren Report and concluded the JFK assassination was the result of a conspiracy. Michael Cockerell fronted a BBC *Panorama* special on the assassination (*Who Killed Kennedy?*) and there's a striking earnestness to his reporting, compared to the arch treatment the assassination gets today.

The political memory of the Kennedy assassinations was its peak but burned out thereafter as Reagan came to power and the years of raking the CIA over the coals for past misdeeds went out of fashion. The Justice Department refuted the HSCA conclusions and the breakthroughs made by the committee have not been integrated into the cultural memory of the assassination. Documentaries still use the Warren Report as their standard, restating old myths created by the cold war agenda of 1963.

The HSCA dropped its investigation of the RFK assassination for budgetary reasons, so it was only after the release of the LAPD files in 1988, that a flurry of books and

³ Sirhan would not allow the interview to be recorded.

documentaries addressed the subject. But it is Oliver Stone's *JFK* (1991) that continues to define the cultural memory of the Kennedy assassinations today.

While criticising Stone for responding to the 'manifest contradictions' of the Warren Report with a 'grandiose paranoid counter myth of a vast conspiracy' that muddies historical truth, Williams lauds 'his very real accomplishment in shaking up public perception of an official truth that closed down, rather than opened up, investigation; his acute awareness of how images enter into the production of knowledge...[and his film's] renewal of interest in one of the major traumas of our country's past' (2005: 61).

The controversy stirred up by Stone's film once more gave the assassination political currency and a campaign by Stone to declassify suppressed assassination-related records led to the passing of the JFK Records Act, mandating their disclosure by 2017. But Stone's mix of fact and fiction also muddled the waters, polarising audiences with wild conspiracy theories that were a step back from the sober work of the HSCA.

Since Stone's film, the Kennedy assassinations are a regular feature on the History and Discovery Channels, with no new major evidential breakthroughs. The same rotating cast of witnesses are interviewed, growing older and more distanced from the event in anodyne films designed not to upset the Kennedy family or corporate sponsors.⁴

There's a sense that the Kennedy assassinations have passed their sell-by date. Just as the reception of historical films change over time, so the political currency and iconography of the JFK assassination have been debased to an artefact of pop culture, re-appropriated in video games and pop videos for Marilyn Manson, Erykah Badu and Lana del Rey, just as Hitler is relentlessly parodied in *Downfall* memes on Youtube.

In approaching the subject today, the commissioning editor's perennial first question is: Why should we care? Unless you have significant new evidence to solve the case, it's an uphill struggle to get anything original made, and it doesn't help that influential BBC Storyville editor Nick Fraser is on record as saying 'I hate conspiracy theories'.

⁴ The recent Kennedys mini-series was dropped by the History Channel in the U.S. after the Kennedy family complained about its historical accuracy.

We should care about the RFK case because Sirhan is still alive and his status as an Arab political prisoner, post-9/11, carries a political charge. We have a convicted man, eligible for parole since the early eighties, stripped of his right to tell his story in the media; a state narrative that is clearly false and does not meet the burden of proof to satisfy his conviction; a media unwilling to commission new work on the case despite significant new evidence; and a legal system only forced to act when the story works its way onto the news agenda and there are calls for political action.

What Jerry Kuehl wrote about the role of the historical filmmaker in 1976 is even more applicable today: '[Our job] is to tell, and show – in a word, to *do* history for – people who do not, as a rule, read very much' (1976: 182). As Kuehl notes, for most people, watching historical documentaries is not a complement to their reading on the subject, 'it's all they have' (1976: 182). A recent CBS News poll found 7% of respondents thought Lee Harvey Oswald killed Abraham Lincoln (2012). As civil rights era murders are being reinvestigated and new convictions obtained, surely this case deserves the same attention?

3.2 Visible Evidence in the Zapruder Film

As Bruzzi notes, this raw, unedited, spontaneous and ‘accidental record’ of the JFK assassination, filmed artlessly as a family memento, ‘became the official text of the event [and] remains arguably the most important piece of raw footage ever shot’ (2005, 421-2). Life Magazine described Zapruder’s 8mm camera as the ‘only unimpeachable... [witness] to the tragedy’ (1966: 41, cited in Simon, 1996) and the film is ‘invisibly back-projected on all the other film evidence’ yet ‘open to multiple interpretations’ as we extrapolate truth and meaning from the images we see (Simon, 1996: 43, 47).

As Chanan notes, while fictional action can be shot from multiple camera angles and points of view and is repeatable, the documentary image, when filmed with a single camera, ‘represents only one possible version of what could have been shot’ (2007: 51). The Zapruder film offers only one unique view of the assassination, an incomplete representation recalling the Robert Mitchum line from *Out of the Past*, much loved by Errol Morris: ‘I could see the frame, but I couldn’t see the picture’ (Morris, 2010). As Chanan writes, it ‘tells the (or a) truth, but not the whole truth, because the whole truth lies off screen, and the greater part of it remains invisible’ (2007: 51).

While Bruzzi laments the missing reverse shot to the Zapruder film that might reveal a shooter on the grassy knoll, I disagree with her contention that ‘Zapruder’s camera...is effectively facing the wrong way’ (2005: 423). Without a definitive audio record of the gunshots, a silent record of Kennedy and Connolly’s reactions to the impact of the bullets and their respective timing is the most important visual evidence we can find.

As Simon notes, the Zapruder film ‘must be slowed down to be legible; its twenty-two seconds go by too fast for its vital content to be adequately studied’ (1996: 48). As Bruzzi states, its incompleteness triggers two impulses:

The first being to focus obsessively on the source material itself, to analyse, re-analyse, enhance, digitally re-master Zapruder’s original in the vain hope that these images will finally reveal the truth of who killed Kennedy, the second being to use the same sequence of images as the basis for an interpretation of the assassination that invariably requires and incorporates additional, substantiating material, usually drawing from an ever-dwindling number of eye-witnesses and an ever-increasing pool of conspiracy theorists.

(2005: 424)

Weschler dubs this search for meaning 'CSI: Kodak' (2012) and while the low-resolution 8mm gauge is limiting, it does yield crucial evidence: a timed record of the event and evidence of the sequence of shots and how many there were.

The phrases 'single bullet theory' and 'shot from the grassy knoll' are synonymous with the assassination because of the Zapruder film, which presents the strongest available evidence against the 'single bullet theory' (on which the 'single assassin' theory rests) and for a shooter in front of Kennedy. Many of the theories around the assassination owe their notoriety to the Zapruder film. Without it, the assassination as an event would be somehow hidden in the collective memory, lacking the iconography that, through familiarity and repetition, makes it memorable.

Questions of Authenticity

Chanan notes that 'as a naïve reality-fragment, [the Zapruder film] is devoid of any imposed interpretation or narrative purpose, it has no hidden authorial intention or discernable bias...[While] it is brief and incomplete...No one denies that what is shown is what happened...' (2007: 50).

Well, not quite. No one denies that what Zapruder filmed is what happened - other 8mm films authenticate his footage - but we can question whether the extant Zapruder film we see today is identical in every frame to what Zapruder filmed.

What concerns us is not just the artless amateur with his mechanical eye but the hidden processes by which the human hand prints and manipulates the original negative before releasing it to public scrutiny. Bruzzi's claim that the Zapruder film is 'an unfailingly authentic record of the Kennedy assassination' (2005: 428) is now in some doubt, as the chain of custody of the original camera negative after it left Zapruder's hands is highly problematic.

The idea that the authorities would alter the physical evidence in a criminal case is not without precedent. It is now generally accepted that there was a cover-up by federal agencies and the Warren Commission regarding the Kennedy assassination, if only to whitewash intelligence failings in monitoring Oswald and to protect state secrets.

As Bruzzi notes, frames 313-315 showing the fatal shot to Kennedy's head 'were deemed too traumatic to show' by Life magazine and frames 313 and 315 'were 'accidentally' reversed' in the published Warren Report, 'which gave the impression that Kennedy's head was thrust forward by the impact of the bullet, thus supporting the lone gunman theory' (2005: 423).

In the late nineties, Douglas Horne explored the possible alteration of the Zapruder film for the Assassination Records Review Board, a body set up by Congress to implement the JFK Records Act, the political legacy of Oliver Stone's film. After further research, Horne (2012) concludes, 'the Zapruder film in the National Archives...is an altered film indicative of a government cover-up, which yields tainted and suspect information'.

While the film was processed in Dallas on the Friday afternoon of the assassination, Horne (2012) argues the original film negative 'was in the custody of the CIA and Secret Service – not LIFE magazine – from late Saturday evening through Monday morning' and that it was altered, prior to the publication of frames from the film in LIFE magazine the following Tuesday and the film's use by the Warren Commission.

According to retired employees of the CIA's National Photographic Interpretation Center (NPIC), two segregated teams analysed the film and created briefing boards for the President. Horne argues that after the first session on Saturday night, the film was flown to Kodak's secret facility for military film processing in Rochester, New York and altered before being returned to the NPIC in Washington, where a second set of briefing boards was created on Sunday night. Only this second set are found in the National Archives today.

Dino Brugioni, a senior figure at NPIC and the author of *Photofakery: the History and Techniques of Photographic Deception and Manipulation* (1999) was present at the first 'pre-alteration' session. He told Horne (2012):

The head explosion he recalls was much bigger than the one seen today in frame 313 of the extant film (going "three or four feet into the air")...Mr. Brugioni cannot, and does not, accept frame 313 of the extant Zapruder film as an accurate or complete representation of the fatal head shot he saw in the camera-original Zapruder film on the Saturday evening following President Kennedy's assassination.

The purpose of the alleged alteration seems to have been to minimise visible evidence of conspiracy – to minimise the backward explosion of Kennedy’s head and mask the location of the entry-wound to mask evidence of a fatal shot from the right front of Kennedy. Such immediate action to doctor the only visual record of the assassination clearly indicates a cover-up or plot at the very highest levels of power.

Horne (2012) describes a new analysis of the Zapruder film by a group of ‘Hollywood film industry editors, colorists, and restoration experts’ working with new 6K scans of the film. The group have identified:

...many frames...which show what appear to be “black patches,” or crude animation, obscuring the hair on the back of JFK’s head. The blacked-out areas just happen to coincide precisely with the location of the avulsed, baseball-sized exit wound in the right rear of JFK’s head seen by the Parkland Hospital treatment staff, in Dallas, on the day he was assassinated.

This is not the place to explore Horne’s claims in any further detail but it does remind us that when considering the authenticity of filmed evidence, proving the integrity of a film at its moment of origin is not enough. We must track its chain of custody, as we would any other important piece of evidence. While an academic archive has no reason to alter a film negative, in the context of the Kennedy assassination and a government anxious to purge any evidence of conspiracy, the temptation to alter or suppress such evidence in the only filmed record of the event is obvious.

Oliver Stone used the Zapruder film as the bedrock of his argument for a government-led conspiracy without challenging the integrity of a film that was in CIA hands within twenty-four hours of the assassination and not publicly seen for years afterwards.

3.3 Visible Evidence at the Ambassador Hotel

When historical research centres on a murder case, the search for new or neglected audiovisual evidence of the event in the archives is a key aspect of any cold case investigation. There is no known visual record of the actual shooting of Bobby Kennedy but the assassination is unique for the sheer volume of film, video and audio evidence recorded at the crime scene before and after the assassination.

It was election night in California, the pivotal Democratic primary that Kennedy had to win to have any chance of taking the Democratic nomination from Vice President Humphrey in Chicago. The U.S. networks reported live from the hotel in the hours leading up to Kennedy's victory speech, just after midnight. After the speech, reporters and camera teams followed Kennedy off the podium and through a narrow, dimly lit kitchen pantry to a late-night press conference.

But, crucially, the portable 16mm news cameras were not rolling as the shots rang out. By the time Jim Wilson of CBS heard the shots and jumped through the pantry doorway with his camera, Kennedy was lying in a pool of blood on the floor, his head cradled by a young Filipino busboy in a tragic tableau that became the iconic image of the assassination (*CBS film*, 1968).

Camera teams from all major networks and local affiliates were filming at the hotel that evening - de facto CCTV of what was going on. The networks kept not just the off-air recordings of their live broadcasts but the 'raw feeds' transmitted from multiple fixed video cameras inside the Ambassador Hotel and news-film shot by mobile cameramen like Wilson. These 'raw feeds' were available on two-inch videotape to investigators in 1968 but they only requested 'news-film' from broadcasters.

The video cameras at the back of the ballroom had less evidentiary value than the film cameras that followed Kennedy into the pantry but to completely ignore this footage was a strange decision - perhaps, the police weren't acquainted with the possibilities of video at the time. They relied instead on film and photographs taken that evening and made a crude twenty-minute compilation reel of the key events before and after the shooting.

CNN reporter Brad Johnson was the first to examine these 'raw feeds' as evidence in 2004, after seeing bootleg copies shared by private collectors. Johnson used his professional status to conduct a comprehensive search of the network archives and we later pooled our collections, amassing over one hundred hours of archive shot inside the hotel that evening. Our professional media status gave us access to material in commercial archives that is simply not available to concerned citizens or historians unable to license broadcast material.

Our examination of these hundred hours of archive was comparable to a detective wading through CCTV footage of a crime scene – Princess Diana leaving the Ritz or the terrifying hotel-security footage of the Mumbai attacks – looking for traces that would unlock unresolved aspects of the investigation. Cross-referencing clock-times on broadcast tapes, Brad established exact timings for this footage, giving us an invaluable chronology of the event – who was where when, and how this fit with their witness testimony.

While the horrified reaction of Kennedy supporters to the shooting was intensely moving, this was expensive network footage, so given my budget, my brief was clear. I could not afford to license clips for purely aesthetic reasons or what de Antonio calls their 'historical resonance'. My focus was solely that of an investigator, searching for footage that would trace the movements of key suspects that evening.

This led to important discoveries - new film of alleged bullet holes in the pantry doorframes and video of security guard Thane Eugene Cesar patrolling the hotel after the shooting – as well as footage of the alleged CIA agents at the hotel discussed in the next section. My take-away from this archive search is that filmmakers have a unique role to play in rediscovering important visual evidence of the past:

- Their professional status provides access and their interest in licensing material gives archives an incentive to index and digitise footage that has been lying dormant in film cans since the assassination.

- Filmmakers and their research teams bring an informed eye and a depth of subject knowledge to the footage. They know what they're looking for and can find clues in

the metadata that bring sense and order to hours of seemingly random footage and enable important discoveries.

- This evolving knowledge base around the audiovisual record of a subject can be shared with other filmmakers, as I did with Brad Johnson, advancing collective knowledge and producing better-informed documentaries.

As Errol Morris (2010) notes, 'History is perishable. It depends on evidence. There are countless stories where evidence is lost, corrupted or hidden, and hence, our attempts to re-assemble a picture of reality are doomed at best.'

When the LAPD records were finally released in 1988, a destruction order in the files revealed the Department had incinerated 2400 photographs from their investigation files yet curiously, the hundred hours of network footage we later found helped debunk one of the most notorious alleged incidents of LAPD destruction.

15-year-old Scott Enyart claimed he was in the pantry with his stills camera, taking photographs of Robert Kennedy at the moment he was shot. The police confiscated Enyart's camera and he claimed images of those key moments were missing when the photos were returned to him in 1988. Enyart filed a two million dollar lawsuit against LAPD for the missing photos and won a substantial settlement. The rediscovered video footage clearly indicates Enyart was not in the pantry at the time of the shooting and that his legal claim was fabricated.

While the assassination itself was not caught on camera, the LAPD did bring key witnesses back to the crime scene in November 1968 to help re-enact what they saw. VHS tapes of these reconstructions turned up at a suburban branch of the Los Angeles County District Attorney's office in 1985, when Philip Melanson's university status helped convince the D.A.'s office to begin processing its RFK case file for public disclosure (Melanson, 1991).

The videos of the witness reconstructions clearly show the assassination described by witnesses does not match the official story, so they were suppressed at trial. The original film elements are missing, so these misplaced VHS tapes are all we have.

The most valuable audiovisual holdings in the police files at the California State Archives are the audiotapes of the police interviews with witnesses in the aftermath of the assassination. Oswald's interrogation in Dallas wasn't recorded because the Dallas Police Department didn't have a tape recorder, so the LAPD insisted on taping witness interviews. While erratically adhered to, this policy did yield a very valuable audio archive. Recordings of Sirhan's interviews after his arrest bear out psychiatrists' claims that he was in a dissociated state in the hours after the shooting.

I quote liberally from audiotaped police interviews with security guard Thane Eugene Cesar, and witnesses Sandra Serrano and Vincent Di Pierro in my film. As I've already noted, the audiotape of Sandra Serrano's polygraph examination by LAPD clearly illustrates the institutional bias that drove its one-sided investigation.

3.4 The Umbrella Man and Gordon Campbell

My film owes its life to archive images of alleged CIA agents at the Ambassador Hotel and my quest to positively identify them and decipher what they seem to be doing. The perils of searching for meaning in archive fragments of this nature are very well illustrated in Errol Morris' 2011 short for the New York Times, *The Umbrella Man*.

The film features Josiah Thompson, a former Kierkegaard scholar and philosophy professor who, as Morris notes, left his post in 1967 'because of his obsession with the Zapruder film' (quoted in Wechsler, 2012). Thompson worked as an investigator for Life magazine, published a book on the film called *Six Seconds in Dallas* and became so absorbed by the minutiae of the crime, he became a private detective.

In Morris' short, Thompson gives an illustrated discussion of a mysterious figure visible in the Zapruder film holding up a black umbrella on a sunny day - a man he dubbed in 1967 'The Umbrella Man': 'In all of Dallas, there appears to be one person standing under an open black umbrella, and that person is standing [right] where the shots begin to rain into the limousine...Can anyone come up with a non-sinister explanation for this?'

Thompson then cites a John Updike column for the New Yorker on the subject from 1967:

[Updike] said that his learning of the existence of the Umbrella Man made him speculate that in historical research there may be a dimension similar to the quantum dimension in physical reality. If you put any event under a microscope, you will find a whole dimension of completely weird, incredible things going on. It's as if there's the macro level of historical research, where things sort of obey natural laws and usual things happen and unusual things don't happen, and then there's this other level where everything is really weird.

(*The Umbrella Man*, 2011)

Thompson and Updike's meditations on the quantum strangeness of the Umbrella Man were borne out in 1978 when he finally came forward, identified himself as Louie Steven Witt and testified before the House Select Committee on Assassinations. Witt said his umbrella was a silent protest at the appeasement policies of Kennedy's father when he was Ambassador to England - an oblique reference to Neville Chamberlain's umbrella.

Thompson concludes:

I read that and I thought, 'This is just wacky enough, it has to be true', and I take it to be true. What it means is that if you have any fact which you think is really sinister...[and] which can only point to some sinister underpinning, hey, forget it, man, because you can never, on your own, think up all the non-sinister perfectly-valid explanations for that fact. A cautionary tale.

(The Umbrella Man, 2011)

As the historian sorts the information from the noise to create meaning from the visual evidence of the assassination, we are forced to interpret seemingly sinister visual information that may have other unforeseeably benign explanations. The strange thing about Morris' film is that standing beside the Umbrella Man in Dealey Plaza is another figure, dubbed Dark-Complected Man (DCM) by researchers, who raises his hand at precisely the moment the shots rain into the limousine and has never been identified. The Umbrella Man and DCM calmly sit on the curb together as all around them run up the grassy knoll in search of a gunman, and DCM appears to talk into a radio. And so on it goes, fragments of a puzzle that may never be reconciled into a tidy narrative and absolute truth - an important detail that didn't fit into Morris' telling of the story but is present in the film, obvious to those with any knowledge of the case.

All of this resonates strongly with my own search for meaning in the footage from the Ambassador Hotel. The latter part of my film shows me parsing this footage with witnesses, trying to positively identify three senior CIA agents at the hotel beyond reasonable doubt and verify my working hypothesis that they were involved in the assassination. I note that 'as I built my case against the CIA, I also had to factor in some negative identifications' and as new evidence emerged after the Newsnight piece, the theory started to unravel.

After further research, I identified the two figures alleged to be senior CIA agents Gordon Campbell and George Joannides as salesmen for the Bulova Watch Company, at the hotel for a sales meeting - not as a shady cabal but as workmates catching a glimpse of Bobby Kennedy. You interpret an image with the information available. Interpreting the actions of a CIA agent who hated the Kennedys and a watch salesman at the hotel to hear him speak obviously produce two different readings. As Campbell is seemingly guided towards an exit, why does he hold his right hand horizontally

across his chest? Is he carrying a weapon from the scene or is it just an odd mannerism that appears sinister when loaded with other information?

The misidentification of Campbell and Joannides highlights the dangers of photo identification from memory decades after the fact but former CIA agent Bradley Ayers still stands by his identification. General Omar Bradley was chairman of Bulova - a major defence contractor - raising the possibility the Bulova sales team provided convenient cover for an intelligence operation. In the film, I conclude: 'Did [the Bulova salesmen] double as Campbell and Joannides? It seems unlikely but, at this point, I just don't know.'

I also don't know who the alleged figure of David Morales in the footage really is. Unfortunately, the images are murky and lack sufficient detail for biometric testing or comparison with known photographs of Morales. As I say in the film, 'Morales said he was there but now I'm not sure it's the same person.' But Brad Ayers and Wayne Smith continue to insist it is Morales in the footage and James Fetzer, a McKnight Professor Emeritus in the philosophy of science at the University of Minnesota continues to defend my Newsnight claims, long after I have abandoned them (Fetzer, 2010).

In challenging the naïve assumption that through research, absolute truth is possible, Morris cites Ginzburg's contention that 'the whole idea of detective work was created by writers of fiction, and then adopted by the police' and that 'this great canon of detective literature' shapes the way we think about investigations: 'It's the dream of detective fiction that the world provides evidence of itself. And by scrutinizing the world, you can learn all you need to know. It's an optimistic 19th-century thesis...But history is weird...' (quoted in Weschler, 2012).

Weschler (2012) cites Keats' concept of negative capability in trying to understand Morris' process: 'the ability to contemplate the world without the desire to try and reconcile contradictory aspects or fit it into closed and rational systems...when a man is capable of being in uncertainties, mysteries, doubts, without any irritable itching after fact and reason.' Weschler feels Morris 'itches like crazy after fact and reason' until he gets to the point, after relentless digging, 'where you achieve this sense of mystery and doubt, at

which point you finally get calm and feel centered.’ Morris’ concern about this ‘is that people are left unsatisfied somehow. That I do all this stuff and they think, Whoa, it’s unresolved.’

I identify very much with Wechsler’s suggestion and Morris’ response. In relentlessly pursuing truth and certainty with a seemingly intractable case that will surely yield answers the deeper you dig, sometimes it works the other way - the deeper you dig, the stranger things seem and the more doubtful you become. Your investigation proceeds to the point where you cannot find an absolute truth but know the official truth is not right either.

We are conditioned to expect an emotionally satisfying resolution to our stories, an absolute ending. Jameson speaks of narrative as ‘a commodity that you consume and from which you derive the pleasures of consumption’ (Chanan, 2000: 3). It takes a brave filmmaker to present an intellectually challenging story arc that defies reductive explanation or easy digestion; that implicitly tells the audience or commissioning editor, ‘We did our best to get to the bottom of the story but we couldn’t figure it out in the end. We can’t say for sure what really happened.’

As author and defence investigator Robert Kaiser says at the end of my film: ‘See, this is not an Agatha Christie mystery story, where everything is neatly tied up in a bow in Chapter 23 at the end of the book. It’s one of our most enduring murder mysteries and it will probably continue to be such. That’s the way life is. Nothing is ever quite resolved, is it?’

All you can do is show the audience your evidence and your deductions and hope somebody comes along later to build on them and one day achieve that absolute ending. In the RFK case, acoustic science and the Pruszyński recording of the gunshots at the Ambassador Hotel offer us that possibility.

3.5 The Pruszyński Recording

Advances in technology have improved our access to historical evidence. Important video coverage of the assassination that lay neglected on inaccessible two-inch videotape is now available on DVD and high-definition scans of film negatives provide sharper images with enhanced detail. Advances in forensic audio analysis can also redeem poor-quality audio recordings previously thought to have no evidentiary value.

A good example is the Pruszyński recording, the only known recording of the gunshots in the Robert Kennedy assassination, re-discovered in the archives by CNN's Brad Johnson in 2004 and the subject of my *RFK Must Die Epilogue* (2008). For years, in the absence of such evidence, documentary-makers added artificial gunshots to the pantry footage, leading viewers to think they had seen Sirhan shooting Kennedy 'live on television'.

Johnson retraced the history of the recording by contacting Polish journalist Stanisław Pruszyński, who was standing by the podium at the Ambassador Hotel on the night of the shooting, recording Robert Kennedy's victory speech on a portable cassette-recorder. As Kennedy left the stage to proceed into the pantry, Pruszyński accidentally left his recorder running, so as he followed Kennedy towards the crime scene, his tape picked up the distant bursts of gunfire.

The quality of the cassette recording was so poor that when the FBI reviewed it in January 1969, they found nothing of evidentiary value but Brad Johnson took the recording to a number of forensic audio experts, culminating in an extensive analysis by Philip Van Praag in 2005 using sophisticated audio enhancement tools. After carefully verifying its authenticity, Van Praag discovered thirteen 'shot sounds' on the recording, including two 'double shots' - shots so close together they could not have been fired from the same gun.

After test-firing guns identical to those owned by Sirhan and security guard Thane Cesar, Van Praag matched sound anomalies on the recording to create a clear scientific picture of what occurred: eight shots fired by Sirhan in front of Kennedy and five shots fired by Cesar from behind the senator. These findings were made public in the 2007 Discovery Times documentary *Conspiracy Test*. Once again, the intervention

of a documentary producer and the budget provided by a broadcaster funded extensive testing of long-neglected evidence and gave it evidentiary value.

Audio evidence also played a key role in 1978 when the HSCA concluded there was probably a conspiracy in the JFK assassination, primarily due to an analysis of four alleged gunshots detected on a police dictabelt recording in Dealey Plaza - one of which was traced to the grassy knoll. The FBI and the National Academy of Sciences later rejected these findings and they are still in dispute over thirty years later.

The problem with the audio evidence of alleged gunshots in both Kennedy assassinations is that the quality of the recordings are so poor, the 'shot sounds' can't be heard with the naked ear. Conclusions can only be drawn by forensic audio experts examining 'impulse patterns' and they are prone to disagree on their findings. This renders the issue inaccessible to the general public and easy to suppress by the authorities. Nonetheless, Van Praag's findings are now the basis for a new habeas corpus appeal by Sirhan's attorney.

3.6 Representing Sirhan Sirhan

Lee Harvey Oswald did not survive to have his day in court or defend himself in subsequent television interviews but his famous line in the hallway of the Dallas Police Department still cryptically defines him – ‘I’m Just a Patsy!’

Sirhan Sirhan did survive - escaping the death sentence after the California Supreme Court repealed capital punishment in 1972 - and the most direct way of representing him is giving him a voice and talking to him about the crime. Unfortunately, this is not possible - recorded interviews with Sirhan have been barred by prison authorities since 1994 and only two interviews have been filmed with him since his trial in 1969.

The first, with NBC’s Jack Perkins, was recorded the day after Sirhan received the death sentence and broadcast as *The Mind of an Assassin* in May 1969; the second was recorded with David Frost for the syndicated *Inside Edition* in 1989. In between, a prison ban on media access and Sirhan’s own reticence saw him disappear from television screens for twenty years.

Successive California governors have vetoed bills to restore media access to prisoners. Governor Schwarzenegger (2006) said, ‘I do not believe violent criminals should be able to traumatize their victims a second time by having unfettered access to the media’. In September 2012, Governor Brown was equally dismissive: ‘Giving criminals celebrity status through repeated appearances on television will glorify their crimes and hurt victims and their families’ (2012).

As I couldn’t interview Sirhan for my film, I licensed thirty seconds of the Perkins interview from NBC but the cost of using more was prohibitive. These interviews with Sirhan are rarely seen in documentaries due to the cost of licensing, extinguishing his voice from the debate on the assassination and the public consciousness.

The only access to Sirhan the media has is at his parole hearings, currently scheduled every five years. For a long time, Sirhan did not attend these hearings because he felt he had no realistic hope of parole but in March 2011, Sirhan made a three-hour appearance with his new attorney William Pepper and spoke publicly for the first time in twenty years.

Access to the hearing was restricted to ‘representatives of the news media.’ As the small hearing room only had space for a CNN reporter and his cameraperson, CNN operated a press pool, sharing footage with local network affiliates in the prison parking lot after the hearing. I had a hard time gaining access as ‘legitimate news media’ but a local cameraman I hired was eventually allowed into the parking lot, to get a dub of the CNN footage and to tape post-hearing interviews with Sirhan’s attorney.

The ‘pool feed’ system for accredited news media illustrates where images go, who owns them and who can access them after the daily news cycle. My cameraman was the only one to insist on a full copy of the parole hearing. As it was already dark and this would have meant a real-time three-hour recording in a broadcast truck, CNN agreed to send me a free dub of the hearing the next day.

The local affiliates were happy to take selected highlights to illustrate brief news stories the next morning. They didn’t have time to watch the hearing themselves. The clips CNN provided set the tone for all subsequent media coverage, which devolved into visual cliché: the assassin apologises, the assassin argues with the parole board, the parole board puts him in his place. In pulling out the juiciest, most dramatic moments of the hearing, these brief reports misrepresented Sirhan’s appeal argument and portrayed him as a loner, still full of hate after all these years, in line with his prosecutorial depiction. A three-hour hearing was reduced to a couple of misleading sound bites and Sirhan’s side of the story remains untold.

A couple of days later, the hearing was no longer news and only CNN and I had full copies of the proceeding. These daily pool feeds provide lucrative archive material for the commercial footage arms of major broadcasters and the hearing footage can now be licensed through CNN ImageSource for a hefty premium. I now have a three-hour recording of the hearing to draw on, free-of-charge, in a follow-up film on the case. CNN will never broadcast it, so only I am free to distribute Sirhan’s side of the story. Do I stream it for free online in a raw form that few will watch in its entirety? Do I re-package it into a new film on the Sirhan case that fits a slot in the television schedules? Or do I make a more subjective film for a niche audience who will pay to stream it online?

3.7 Reception of *RFK Must Die*

As O'Connor notes, 'people make meaning from images (or signs) by relating them to a series of codes, among them cultural codes, shared artistic codes, and cinematic codes' (2005: 384). The first hurdle any film on a Kennedy assassination encounters is the cultural code around the dreaded term 'conspiracy theory', which deeply affects the reading of any documentary on the subject.

The final part of the 1967 CBS Report into the JFK assassination (*The Warren Report, Part 4*) explored why the American people didn't believe the official story. Psychologists traced the 'conspiracy theory' mindset back to the paranoia of wartime and the Cold War period. The red scares and anti-communist witch-hunts of the McCarthy era perversely led to a mistrust of government. Although Watergate and later disclosures of CIA misdeeds proved this intuitive mistrust well-founded, the mainstream media have continued to sneer at conspiracy theories, particularly since Oliver Stone polarised audiences with his own counter-myth to the Warren Report.

The pre-dispositions of critics towards 'conspiracy theory' are easily detectable in the reviews of *RFK Must Die*. In diametrically opposed reviews for *Time Out*, Adam Lee Davies (2008) lauds the film as 'meticulously detailed...[presenting] abundant evidence' of conspiracy, while Dave Calhoun (2008) calls the same evidence 'flimsy and circumstantial...If you like conspiracy docs that apply flakey 'science' to overturn assumed truths (often involving the moon or 9/11), then you might dig this film...Of course, it was the CIA wot did it – or at least knew more than they let on'. Yet in the same issue, Calhoun lauds *Terror's Advocate*, a tale of multiple conspiracies involving French lawyer Jacques Vergès and international terrorists. Terrorists conspire, governments don't.

The *Guardian* review embraces the mystery while immediately categorising the film alongside Oliver Stone:

We've seen from Oliver Stone's JFK how easy it is to present a persuasive conspiracy theory in the contained environment of a movie. Let's hope he doesn't hear about this documentary, in which Irish journalist Shane O'Sullivan proposes the outlandish theory that Sirhan Sirhan, the assassin of Kennedy's brother Robert, was a real-life Manchurian Candidate, programmed

by the CIA. The assertion gains traction thrillingly as O'Sullivan unearths old witnesses, TV footage, photographs and recordings, and identifies shady CIA operatives at the scene of the 1968 shooting. Or does he? Having opened his can of worms, O'Sullivan is forced to half-close it again in light of contradictory information, which makes for a slightly disappointing conclusion. Still, he plumps for journalistic scepticism over a neat Hollywood ending. Stone would never do that.

(Rose, 2008)

The film was released by Soda Pictures and ran for a week at the ICA in London and a week at an independent cinema in New York on the fortieth anniversary of the assassination. I also arranged three screenings on the West Coast in San Francisco, Los Angeles and Sacramento. I discussed the case on local talk radio and faxed invitations to every member of the California legislature, not one of whom turned up.

The audience were primarily baby boomers who were in college when Kennedy was shot and had never trusted the official story. The film preached to the converted and struggled to get out its Kennedy demographic and reach a younger audience.

MacDougall reminds us:

The filmmaker can never see the film as others see it...For the filmmaker, the film is an extract from all the footage shot for it, and a reminder of all the events that produced it. It reduces the experience onto a very small canvas. For the spectator, by contrast, the film...opens onto a wider landscape...[the images] induce endless extrapolations from what is actually seen...Like literature, the film's effect is to stimulate a work of their own imaginations.

(1998: 27-28)

The viewer does not watch a documentary on this subject passively. They have developed what White calls a 'mental set' (1987: 192), testing the unfolding story against their genre expectations of a 'conspiracy documentary' and previous documentaries on the subject: What's your new theory? What new evidence do you have to support it? Am I persuaded or not? Was it informative and entertaining?

Reception is highly selective and eludes the director's intention. I thought I made my doubts about the identifications of the alleged CIA agents at the hotel very clear but some reviewers still believe all three agents were there and involved in the assassination. They take from the film what they want to hear and tune out evidence to the contrary.

Outside anecdotal evidence, reception analysis is difficult for a film like this. It has sold widely to television, screening worldwide on Robert Redford's Sundance Channel, but I have received no audience feedback or ratings information from broadcasters. The BBC Newsnight piece has been viewed half a million times on Youtube and 10,000 DVDs have been sold worldwide.

Two interesting developments accompanied the release of the film. The first was a follow-up appearance on Newsnight, a year and a half after the piece that kick-started the project. Newsnight were initially wary of revisiting the subject as editor Peter Barron had been sitting on a complaint by British author Mel Ayton about my previous broadcast - Ayton supports the official story and argued he should have been interviewed to give my piece balance.

Shortly before my U.S. trip, Barron suggested bringing Ayton and myself together in the studio to debate the case on the fortieth anniversary of the assassination. I agreed but the day before broadcast, the plan was changed. It was feared a debate on the detail might go over the heads of the audience, so interviews would be pre-recorded.

By now, the Pruszyński recording had been making network news broadcasts in the States as Philip Van Praag presented his findings to the American Academy of Forensic Sciences (Randerson, 2008). The Documentary Channel had just bought U.S. television rights to *RFK Must Die* and agreed to fund a follow-up short on the Pruszyński evidence as an epilogue to the main feature. I traveled to Tucson to interview Van Praag in his studio and the resulting short *RFK Must Die Epilogue* is included my portfolio.

I offered this new footage to Newsnight but they weren't interested. It soon became clear their sole agenda was to correct the earlier story of the CIA agents at the hotel and get a sound bite of me retracting my earlier allegations. I was interviewed from New York and carefully placed the misidentifications of the CIA operatives in the context of the new audio evidence of a second gun, Sirhan's programming and Morales' confession of involvement. Once the satellite video link went down, I could still hear the Newsnight producers talking in the London studio:

Maria: I thought it [my rebuttal] was quite strong.

Simon: But we didn't get 'I made a mistake'.

Maria: No, that's not what he said.

Maria seemed to find my rebuttal quite convincing but Simon seemed only interested in my admitting, on behalf of Newsnight and in answer to Ayton's complaint, that I made a mistake.

In the final five-minute piece (*RFK Update*, 2008), Newsnight's veteran U.S. correspondent Peter Marshall spoke for me in his narration: 'Shane O'Sullivan explains in his new documentary [subbed 'JFK Must Die' (sic)] how he made a mistake.' All mention of the new audio evidence was cut from what I said and replaced with 'some claim there's evidence at least fourteen shots (sic) were fired'.

This omission distorted what I said and diminished the true state of the evidence to a confession by David Morales and an unproven Manchurian Candidate theory. Marshall concluded: 'So a possibility, on a theory, behind a hypothesis. On such rich speculative material conspiracy theories will flourish'.

The condescending lead-out and deliberate omission of important new evidence was shocking to me at the time. CNN featured the Pruszyński evidence prominently in their fortieth anniversary coverage, so I felt I had been stitched-up. I had allowed Newsnight to use clips from my film on the assumption it would be a balanced debate with Ayton on the key evidence. Instead, Newsnight took sides in their own interest. A subsequent complaint to the Editorial Complaints Unit went nowhere but my experience as a naïve contributor manipulated by the filmmaker was illuminating.

I am still very much involved in the Sirhan case and my film and book continue to be essential references for those interested in the story. Sirhan's attorney is awaiting a ruling on a new trial and shooting victim Paul Schrade has lodged a separate petition to reopen the case with U.S. Attorney General Eric Holder. Schrade worked closely with the Kennedy family to build a new school complex on the site of the old Ambassador Hotel in memory of Robert Kennedy. His submission to the Attorney General includes a DVD of my epilogue on the Pruszyński recording to illustrate its importance in reopening the case and has been seen by members of the Kennedy family.

CHAPTER 4: Children of the Revolution (2010)

4.1 Genesis of the Work

Children of the Revolution tells the stories of Ulrike Meinhof and Fusako Shigenobu, two women inspired by the student revolutions of 1968 to overthrow capitalism through world revolution, as leaders of the Baader Meinhof Group and the Japanese Red Army. My attempt to tell their stories 'through the eyes of their daughters' raised many issues about how I would work with Bettina Röhl and May Shigenobu to represent their mother's stories in their voice and from their perspective.

Both women are journalists who have written books about their mothers. Bettina's *Making Communism Fun* is an award-winning, 677-page historical study of her parents, their influential magazine *konkret* and the German Left. May's autobiography, *Secrets*, is a response to her mother's open letter to her, *I Decided to Give Birth to You Under an Apple Tree*, published from prison after Fusako's arrest and May's relocation to Japan in 2001.

I emailed Bettina and May with a proposal for the documentary in 2003 and both agreed in principle to participate. My first funding attempt failed, so I revisited the project after my RFK film, securing development support from the Irish Film Board and the MEDIA programme of the European Union. During my research, I commissioned a detailed, 73-page summary of Bettina's book and a full translation of May and Fusako's shorter volumes, as well as a history of the Japanese Red Army written from prison by Fusako during my production period (Shigenobu, 2009).

These translations provided most of the necessary research on the personal backgrounds of May and Bettina, their views on key events in their mother's lives, their insights into key personal and political moments and a sense of their boundaries – what they might discuss on camera based on what they had published. In the film, they provide both oral history from the private world of their childhoods and an expert, historical perspective on their mother's actions from the inside.

The development funding allowed me to shoot a teaser for the film and conduct my principal interviews with May and Bettina in early 2009. May had no pre-conditions

for an interview but with Bettina, issues of trust and editorial independence made our working relationship extremely difficult. I will present a case study of this relationship in the next section after a brief discussion of funding.

Funding

The subfield of creative documentaries would be classified by Bourdieu (1993, 1998) as ‘restricted production’, relatively autonomous from the demands of the market, offering a window of reflection on social and political events away from the time pressures of hard news. Most do not make any money and depend on the support of ‘soft money’ from cultural funds like the Irish Film Board or co-production funding from public broadcasters, who oversee off-peak slots less pressured by ratings and commercial imperatives.

Commissioning editors dominate the subfield, bestowing economic and symbolic capital on dominated filmmakers. The trajectory of many filmmakers’ careers is that they later acquire enough cultural and symbolic capital to become commissioning editors themselves. Having learned how to ‘play the game’ (Bourdieu, 1998: 3) successfully, they claim the rewards of editorial power and domination and reinforce the doxa of the existing structure and mechanisms.

The ecosystem of the creative documentary operates through the mechanism of the pitching forum, a co-financing and co-production market, which applies the familiar pitching model of *Dragon’s Den* to film. Filmmakers compete for commissioning funding, knowing that without TV money, financing and distributing your film is much more difficult.

The most important co-production market is the IDFA Forum, held every November in Amsterdam as part of the world’s most prestigious documentary festival.

Commissioning editors gather from around the world to assess pitches from the cream of the world’s documentarians and similar pitching forums are held throughout the year at other festivals, notably Sheffield Doc/Fest and Hot Docs in Toronto.

The power relations in Bourdieu’s subfield are clearly embodied in such pitching forums. Commissioning editors - in a hierarchy defined by size of broadcaster and

funding available - sit in judgement on the best new project pitches selected by a wider pool of commissioning editors. Project pitches are framed by the accrued symbolic capital of the filmmaking team and their existing relationships with commissioning editors. The system favours filmmakers who have learned the 'rules of the game' (Bourdieu, 1995: 226) - the kinds of ideas that attract the interest of those in power and how to package them to maximise the chance of funding.

I pitched *Children of the Revolution* in Sheffield and Lisbon, having successfully negotiated pre-selection with a new angle on a contentious subject and 'unique access' to the daughters of Meinhof and Shigenobu, access prized by commissioning editors in finding a new perspective on a familiar story and renegotiated later on by Bettina.

Sheffield MeetMarket took the form of speed-dating meetings with commissioning editors, two of whom asked for a detailed treatment - a history editor at ARTE France and a commissioning editor at German broadcaster WDR. The format of Lisbon Docs was more interesting. For three days, twenty selected filmmakers practiced their pitches with industry mentors before pitching live to a panel of commissioning editors. Experienced filmmakers shared the 'rules of the game' and helped us calibrate our ideas to appeal to the tastes of those who control the subfield.

My filmmaking colleagues liked my final pitch but the panel of commissioning editors were confused by one central issue - are you telling the history of the mothers or the human-interest story of the mothers and their daughters? You're pitching two different films. I felt both aspects of the film were inseparable and informed each other. The habitus of the commissioning editor was to box them within the categories in their schedule - history or 'human-interest' - you can't have both.

This duality of approach made finding a receptive partner difficult but with a rough-cut of my initial interviews, I secured production funding from the Irish Film Board and WDR. The Irish production loan was an equity investment to be repaid from future revenue, but in creative terms, its aim was to support promising new Irish filmmakers, so I was granted relative editorial freedom.

The commissioning editor at WDR managed a late-night ninety-minute slot for creative documentaries and was attracted by my access to Bettina, who had refused to

tell her story at length to German filmmakers and was perceived to be difficult to deal with. Co-production funding gave WDR editorial control over the German version of the film while I had a relatively free hand with the international version. The WDR editor raised the history/human-interest question again after viewing an early rough cut but once I had successfully woven these strands together into a coherent narrative, my structure and vision were clear and finally accepted.

The wrinkle with the WDR contract was that because it was German public money, I would only be paid once I had delivered the film and the commissioning editor approved it. This gave a certain charge to the protracted negotiations with Bettina Röhl that followed as I cashflowed production in the hope I could finish the film.

The remainder of this chapter will address the research question: What are the implications and challenges of making a film from another person's perspective? I will explore my own working relationship with Bettina Röhl and on a broader level, I will discuss two attempts by filmmakers Jean-Luc Godard and Masao Adachi to make propaganda films on behalf of the Palestinians in the early seventies.

4.2 Working with Bettina – A Case Study

Bettina had a history of being ‘burned’ by previous productions, who, she felt, had either misrepresented or mistranslated what she said, or perpetuated the myth of her mother as a romantic heroine of the German Left, a kind of Joan of Arc figure. We exchanged a long series of faxes and emails, discussing my intentions, before she agreed to two days of interviews in February 2009.

My concept of the film never changed throughout this process - I wanted Bettina to tell her mother’s story through her eyes: as a historian, contesting the Meinhof myth and presenting the real Meinhof as she knew her; and as a family member, sharing personal memories from her childhood and reflecting on her relationship with her mother today, now that she has her own daughter.

Representing a Point of View: Documentary voice and authority

I’d like to discuss briefly the theoretical issues this raises, primarily through the work of MacDougall (1998) and Ruby (1991), before analysing my working relationship with Bettina in detail.

What Rabinow terms a ‘crisis of representation’ (1986: 250) has led to a more reflexive approach by filmmakers to their subjects. As Ruby notes, documentaries are now recognised ‘as an articulation of a point of view – not a window into reality’ (1991: 53). They have evolved from the constraints of journalistic ‘objectivity’ and ‘voice of God’ narration towards what MacDougall (1998) calls a polyphonic, multi-vocal documentary that recognises the subjective voices of the author-as-filmmaker and the subject. As Ruby notes:

Being able to hear people tell their stories and observe their lives instead of being told what they think...clearly offers subjects a greater say in the construction of their image. It recognizes that...the vision of the filmmakers needs to be tempered by the lived experience of the subjects and their view of themselves. It is ‘speaking with’ instead of ‘speaking for.’ However, editorial control still remains in the hands of the filmmaker. The empowerment of the subject is therefore more illusionary than actual.

(1991:54)

Bettina and May, as subjects, may speak for themselves and narrate the story of their mothers but the power to edit what they say and represent them rests with me. As Ruby writes, 'theories of film authorship regard the input of subjects as... 'raw material' to be transformed in the process of making the film' (1991: 63).

As MacDougall notes, reading a documentary, 'we are faced with a double task of interpretation. We interpret the perplexing exteriors of social actors in some ways as we interpret people in daily life, but we also perceive them through the narrative apparatus that the filmmaker has erected for us' (1998: 101). As MacDougall notes of his film *Familiar Places* (1980), the voice of the subject "in the film" is not necessarily the voice 'of the film' (1998: 161).

MacDougall describes the film subject's 'multiple identity - as the person who exists outside the film, in his or her own being; as the person constructed through interaction with the filmmaker; and as the person constructed once again in the viewers' interactions with the film' (1998: 29).

Within this theoretical framework, how does my intention to tell the stories of Meinhof and Shigenobu 'through the eyes of their daughters' stand up? Well, taken literally, it's problematic on a number of levels:

(1) The story cannot be told 'through the eyes of the daughters' unless they are behind the camera or directing themselves. Without authorial control, Bettina tells the story of her mother through the eyes of me. In this sense, Bettina has already told her mother's story in her own documentary on her book for Spiegel TV (*Ulrike Meinhof, Klaus Rainer Röhl und die Akte Konkret*, 2007) and will probably not get a chance again.

(2) However sincere and well intentioned, any attempt to represent another must consider the question posed by MacDougall: 'How can any representation approximate the self that every self knows itself to be?... Full access to another consciousness cannot be achieved... but the attempt need not necessarily be viewed as either futile or reprehensible' (1998: 95).

My logline of Meinhof and Shigenobu 'through the eyes of their daughters' cannot sustain this level of scrutiny but it does communicate the essence of the film I was

trying to make to commissioning editors and the audience with the brevity of a one-sentence TV listing, the argot of the field.

It may be more accurate to describe the film as Bettina's commentary on Ulrike Meinhof through the eyes of the filmmaker. There is a tension between Bettina's generally negative view of Meinhof and the iconic images, loaded with cultural meaning, chosen to represent her. The onscreen charisma of Meinhof's television interviews undermines Bettina's categorisation of her as a crazed terrorist, just as the brutality of the images of Lod airport after the Japanese attack undermine any attempt by Red Army members to blame the Israelis for what happened.

Bettina and May are in a continuous dialogue with their mothers and the film itself as it's constructed around them. While I control the interplay of image and sound, the viewer alone interprets their testimony, 'entangled in my vision and my intention' (MacDougall, 1998: 30) but through their own frame of perception and lived experience.

Bettina's subjective voice

Bettina tells her mother's story in the form of an interview, addressing the audience through the filmmaker. While interviews are, by nature, artificial, and retain a sense of performance, as MacDougall notes, they allow subjects 'to describe their subjective experiences...[and] are perhaps the ideal medium for confession and self-revelation, but also equally for misinformation...and self-justification' (1998: 117). Ruby warns us that 'what subjects say about themselves [should not] be taken at face value...People seldom understand their own motivation...[It's] data to be interpreted, not the truth' (1991: 54).

Unmediated by narration, the reliability of Bettina's testimony is left to the viewer to judge alongside the testimony of other contributors and archive footage of Meinhof. As MacDougall writes, 'At its best...this approach permits a kind of understanding that can incorporate multiple perspectives and transcend much apparently contradictory evidence' (1998: 118).

Bettina's status as a historian and daughter of Meinhof gives her privileged access to the subject but not exclusive insight into its cultural meaning. She was seven years old when her mother went on the run and her views are bound up with her psychologically complex place in the story.

Jutta Lack-Strecker took care of Bettina at kindergarten and is now a psychotherapist. In the film, she remembers Bettina as 'a little power-woman, who could also be furious and raving, and show resistance, with burning eyes,' the fiery Bettina and her gentler twin-sister representing 'two sides of their mother'. We question the ideological and psychological base of what Bettina is telling us - the subtext of why she holds such a harsh, dogmatic view of her mother is encoded in the film (Ruby, 1991).

Trust and Self-determination

On Jameson's first level, the film represents 'a crossing of cultural perspectives' (MacDougall, 1998: 163) as Bettina and May tell their mother's stories and analyse their unique lived experience, filtered through my vision and intention as filmmaker.

On Jameson's second level, in the off-screen drama of making the film, filmmaker and subject are negotiating control and authority over the film while trying to translate cultural and gender differences. Bettina and I had a recurring problem understanding each other. She did not 'get' my ideas and it made her feel insecure about the project as she tried to renegotiate her mother's legacy on her own terms. Her early trust coexisted with a fear I would appropriate her research and archive materials and present them in my voice, a voice she was unsure of.

My perspective on Meinhof and Shigenobu is also coloured by gender and politics. I sympathise with Meinhof's message - and Bettina could sense that - but am also fascinated by Bettina's oppositional stance to her mother. We have different things at stake - Bettina is personally engaged in protecting her image in the public discourse around her mother; I'm politically engaged in a film that approaches Meinhof through Bettina but offers a multivocal perspective.

Filming

Expanding on Chanan's notion that 'there's a kind of unwritten contract whereby the interviewee accedes to the power of the camera' (2000: 13-4), there's also a written contract whereby the interviewee accedes to their representation by the filmmaker. The standard protocol is that the contributor signs a release form before filming begins, giving their informed consent to their contribution, waiving their moral rights as an author of the film and agreeing that all copyright in the interview is held by the production company, which is free to distribute and promote the film, using their name, likeness and biography.

While Ruby (1991) argues most people are not informed enough about how films are made to give 'informed consent', Bettina was herself a filmmaker and understood what Bourdieu calls 'the rules of the game'. Before filming the interview in Germany, we had a meeting to add further clauses to this agreement.

Contractually, Bettina insisted that in the film and related publicity, I could not refer to her as 'the daughter of' Meinhof but rather as 'a journalist and author, whose mother is Ulrike Meinhof.' She explained quite reasonably that she was not a function of her mother – she was a journalist and author first, and a relative of Meinhof second.

She refused to appear in the same film as her father Klaus Röhl, her sister Regine or Meinhof biographer Jutta Ditfurth - whose depiction of her mother as a heroine of the Left she fiercely opposes - so her participation was subject to their exclusion.

A third additional clause granted Bettina the right of reply if any of the other contributors in the film 'speak about Bettina or Ulrike as a mother' and a fourth clause credited her book, her documentary and a 1995 *Der Spiegel* article on her parents as the basis for the interview.

Neither May or Bettina were comfortable filming at home, so we filmed May's interview in a Lebanese restaurant in Tokyo and recorded over seven hours of interviews with Bettina over two days in a hotel room in the coastal resort where she lives; and at the house in Hamburg where she grew up in the late sixties.

A major issue with this project was obviously the language barrier. Bettina spoke conversational English but was interviewed in German by my German assistant producer, Marcella, who had summarised Bettina's book and researched the German side of the project. We proceeded chronologically and asked Bettina to tell her mother's story around key events in her life. Marcella translated my questions for Bettina and summarised her responses.

The main interview ended with Bettina's reflection on how being a mother has helped her understand her own relationship with her mother. When we finished, Bettina offered to go home and collect her daughter, so we could briefly film them together. It was too cold to film outside on the seafront, but the serene images of Bettina walking her daughter around the hotel lobby speak volumes at the end of the film.

When I contacted Bettina several months later to arrange further filming and told her WDR were now involved, she began to get cold feet. As an online columnist for German daily Die Welt, she was concerned about how she might be misrepresented on German television and attempts to film further scenes foundered.

Bettina now rejected my conception of the film as Meinhof and Shigenobu 'through their daughter's eyes' because she did not have editorial control. As a filmmaker herself, she knew her platform to correct the mythology around her mother was circumscribed by my power to edit her words to serve the story. She withdrew from further participation in the project and tried to withdraw my right to use the interview we had filmed with her, which would have effectively killed a film I had now been working on for a year. I asked her to re-consider and so began a long process of attempted compromise.

Bettina's cold feet and the reasons for her withdrawal go to the heart of history, myth, identity and representation. She had three inter-connected areas of concern:⁵

⁵ The summary of Bettina's concerns is drawn from her correspondence with the commissioning editor and myself during the production period. I have tried to provide a full and accurate view of her position without actually quoting private emails.

(1) The representation of her mother in the film

Bettina felt that every film and book on Meinhof, except her own, had failed to capture the historical reality of her mother, perpetuating the Meinhof myth. She didn't want to be involved in another film that perpetuated this fictional icon through emotional perceptions of Meinhof, rather than documentary evidence.

The subtext that Bettina was the person best qualified to make the film haunted our discussions. She would not agree to further participation unless I presented a detailed concept completely in line with her thinking. As she seemed very sensitive about how the story should be told and how she would be portrayed, I tried to encourage collaboration so she could suggest ideas for filming and feel included in the process. I was then accused of lacking leadership and asking her to make the film for me.

(2) Her personal identity and representation

Although a successful journalist and award-winning author in her own right, usually writing on subjects other than Meinhof, Bettina has been stereotyped in the German media as 'the terrorist's daughter'. Her harsh views on her mother are psychoanalysed as the product of a traumatised childhood and she is very sensitive to being portrayed as merely a function of Meinhof.

She felt the title of the film, *Children of the Revolution*, would perpetuate this. I explained the title had a double meaning - Meinhof and Shigenobu were also 'children of the revolution' - but she didn't want to be marketed as a 'child of the revolution' or as the daughter of Meinhof rather than an author in her own right.

(3) The primacy of herself in the film over her mother

I told Bettina I wanted to tell Meinhof's story 'through her eyes' but she wanted to know who was the main protagonist of the film - herself or her mother? She felt Meinhof was the main protagonist and she was once again a function of her mother, providing access to archive and expertise. She insisted she should be the main protagonist, analysing and classifying Meinhof and exploring how society misinterprets her as a historical figure. She was interested not in Meinhof as a person but as a social phenomenon - a myth to be broken down through documentary analysis.

She felt she was a more important person, historically, than her mother and didn't want to be used to humanise a woman who went mad on the run and became a crazed criminal. She said the film was not about Ulrike Meinhof through her eyes, but through my eyes. We had talked about retracing her childhood abduction in Sicily but if I didn't want to make a film about her life, retracing this wasn't necessary because that was her experience, not Meinhof's.

Bettina, like the editors before her, was trying to split the film into history or human-interest, herself or her mother, concepts that to me were indivisible and had already been discussed at length before she agreed to be interviewed.

Archive

The impasse with Bettina also had major implications for access to archive materials. As joint-heir with her sister to her mother's estate, Bettina controls the use of her mother's words, image and intellectual property. This helps her control the discourse around her mother by withholding access to a large collection of photographs and home-movies that help a filmmaker tell her story.

There are only two other sources for key photographs of Meinhof's life: rival biographer Jutta Dittfurth and Ullstein Bild, part of the Springer empire Meinhof so despised and the publisher of Dittfurth's highly partisan biography. Images of Meinhof are now recognised by all parties as valuable commercial capital, storytelling tools to be withheld from rogue points of view and to be exploited for commercial gain.

Dittfurth initially denied me access to her images because of the film's focus on Bettina and several former Red Army Faction (RAF) members refused to give interviews. Access to archive and contributors on this subject is thus highly political, with contributors seeking control of the context in which archive is used or their views are expressed, with a preference for a supportive political line or a cast of like-minded characters. This of course has a profound effect on how the filmmaker can tell the story. Others were more pragmatic, admitting they earn a living from interviews about the RAF.

In 2007, Bettina's family 'home movies' secured her a 24-minute film for Spiegel TV based on her book. When Stefan Aust used the home movies without permission in his *Die RAF* documentary later that year, Bettina and her sister sued for breach of copyright and were awarded a substantial settlement. When Seven Stories Press published a collection of Meinhof's columns in English, *Everybody Talks About the Weather...We Don't*, the inclusion of an afterword by Bettina was a condition of publication (Bauer, 2008).

Negotiations

As negotiations with Bettina continued, she informed us that any published use of her mother's words was subject to copyright. We could license mute images from a broadcaster, but if Meinhof was heard speaking, her words should be licensed separately through Bettina and her sister. Quite aside from the questionable legality of this, the enormous extra cost involved was prohibitive. We could surely claim 'fair use' against the Meinhof estate's attempt to effectively silence their mother.

It then became a game of 'chicken'. WDR supported me in arguing that Bettina had signed a release form, giving full consent to use the interview and I had a dossier of communications to show I had clearly explained the project beforehand, without any misrepresentation. On the other side, Bettina and her sister, with Germany's most powerful media lawyer, asserting the release form would not stand up in court and fresh from a successful lawsuit against Stefan Aust. WDR and their lawyers were understandably worried and without their trenchant support, the project could have died after many years of work and I would not have been paid.

We tried to resolve these issues by meeting Bettina in Hamburg with the commissioning editor. We now had a rough cut of what we'd shot so far, so Bettina asked to see clips from the beginning, middle and end of the film to understand how her contribution would be used. She said she wouldn't just do an interview and let others decide what to do with it. She didn't want to interfere with my artistic freedom as long as her rights were not infringed - she had to be able to live with the film.

It is highly unusual for a filmmaker to show a contributor rushes during production and against WDR's normal editorial practice. We initially resisted the idea but finally

agreed to send Bettina twelve minutes of clips to help her understand how her contribution would be used and interwoven with May Shigenobu's story.

The clips seemed to reassure her but she felt some were too personal and should be cut: her closing line 'my daughter is a million times more important to me than my parents'; comparing her experience as a mother to her own mother; talking about young girls emailing her everyday telling her what a brilliant mother Meinhof was, made her sound like a victim; when she's sitting on the bench at the end, she looked very tired.

The 'personal' clips Bettina objected to help the audience empathise with her towards the end of the film, so I was very loathe to cut them. She seemed to want to erase any sign of vulnerability or emotion and stick to her role as cool intellectual observer of Meinhof.

Bettina then suggested a compromise – she would co-operate with us in completing the film if we granted her 'full authorization' of all clips of her that would be used. She could then control how she was represented and ensure the film didn't peddle in 'terror-kitsch'. She compared this 'authorisation' to the habitus of the journalist, granting 'quote approval' to a subject in return for a newspaper interview.

I told her such authorisation contradicts the whole basis of a creative documentary and was against the editorial practice (and doxa) of the commissioning broadcaster. Her bid for editorial authority transgressed the habitus of the filmmaker – it would become her film, not mine. As long as I represented her fairly, I had to be free to edit the film. She made a documentary herself, so she understood the difference between disciplines.

At this point, negotiations ended. Bettina had given her 'informed consent' to the footage already shot, so I told her I would now finish the film without her further cooperation, observing all the conditions in our agreement. Although legal threats were made and Bettina continued to insist she 'withdrew her interviews' and voided our agreement, my commissioning editor at WDR stood firmly behind me.

Production

As MacDougall notes, a documentary is 'to some degree under the direction of the subjects' (1998: 159) – what they're willing to discuss and do within the film. After filming lengthy interviews with May and Bettina on the first shoot, once the film was funded, the question was: what can I film to trace their history and connection to their mothers?

A standard practice in historical documentaries is to revisit a place in search of traces from the past. As well as keeping the film visually interesting, contributors can re-connect emotionally with places from their childhood as you explore a new facet of their life in a fresh environment that means something to them.

We had planned to return to the camp in Sicily where Bettina and her sister were abducted by members of the Baader Meinhof Group, en route to re-education in Jordan. One of the kidnappers later apologised to Bettina and they are now close friends, so we had hoped to bring them back to Sicily. Bettina's withdrawal from further filming made this impossible, so I used clips from Wim Wenders' *Alice in the Cities* (1974) – a drama about a young girl separated from her mother – to illustrate Bettina's narration instead. A less literal, more poetic way to tell that story.

The possible meeting of Bettina and May in the Middle East - where their stories connect - was scrapped, but with May's co-operation, we covered more ground in the Japanese story. The scenes that work best have an obvious emotional resonance for May. Our interview outside her mother's prison after a New Year visit connects visually with the prison exteriors of Stammheim, where Ulrike Meinhof died. May's description of the harsh prison conditions reflected my own eight-minute visit with her mother. As with Sirhan, Japanese prisons don't allow recorded interviews.

In the Middle East, we travelled through the landscape of May's past - the camps in Beirut where she grew up, her old schools and university. A former PFLP soldier brought us to a remote valley where three Japanese commandos had practiced for the Lod airport attack in 1972, using scale models of the airport arrival hall. While I projected a filmic resonance onto the barren landscape, May told me she felt nothing. Her close personal feeling for the three Japanese soldiers had nothing to do with a

windswept valley. I ended up using just one shot from the sequence – May walking away from camera, stepping across the landscape. She wasn't feeling anything but the audience could project what they like.

Editing the Film

The challenge in post-production was to interweave the histories of the mothers through the voices of their daughters, capturing the global scope of these revolutionary movements through a mix of testimony and archive. Split-screen montages of archive, captioned with text, bridge sequences with periodic exposition. Supporting contributors give first-person testimony from their historical place in the story, inevitably circling back to the impact of the mothers' actions on Bettina and May as children, building empathy for the principal voices in the film. An extraordinarily frank archive interview with Bettina's father Klaus Röhl captures the Meinhof family dynamic while Masao Adachi appears as a 'father figure' to May.

Bettina's first line in the film, as we see her back at the house where she grew up and her parents separated is: 'As a child, I once said: she wanted the right thing, but chose the wrong means. That was my explanation.' The historical analysis that follows shows Bettina's search for a better explanation and distances her from Meinhof to the point where her next line describes her parents' split with an ironic smile, 'And that was the end of that happy family story...'

The post-title sequence clearly defines the primary perspective of the film as being that of Bettina and May on their mothers and they get the majority of screen time. We see two sides to Bettina – as detached political historian and as a mother and daughter, animated by memories of her childhood: 'There were many differences between my mother and I back then,' she recalls at one point. 'In 1968, it was cool to roll up your sleeves like this, like workers do – and my mother would constantly do that. And I said: 'No, I like it better when the sleeves are rolled down, it's neat.' She laughs. 'I found our new life turned upside down.'

My editor and I felt these childhood anecdotes touched emotional truths at the heart of Meinhof's choice between the personal and political, children or revolution and used them wherever we could, cutting some of the longer historical analysis to make

Bettina a more sympathetic figure to the audience. While Rouch said, 'Film is the only method I have to show another just how I see him' (1975: 99), you show a highly edited version of what you see – a subject at their most concise and engaging.

The main effect of Bettina's withdrawal on the main body of the film was the absence of Meinhof family archive. I sourced alternative photographs from Jutta Ditzfurth; and instead of home movies of Klaus and Ulrike's dating days, I zoomed in on Meinhof's face during her first television appearance: listening, smoking, thinking, a blank canvas.

Towards the end of the film, scenes with May Shigenobu in Tokyo and the Middle East show how she created a new life for herself after her mother's arrest and overcame her most difficult challenge: creating her own identity, separate from what her mother did. Not as a 'terrorist's daughter' but a broadcast journalist in her own right.

The ironic aspect of Bettina's withdrawal was that similar filming to establish her independence from her mother was no longer possible - a sense of her life after her mother died, how she developed her career as a journalist, and her life as a working mother now. Instead, the interview clips we showed her analyse the myth of Meinhof and reflect on how having a daughter has helped her understand her own mother.

And so, after an extremely stressful process, the German part of the film was determined by what we could *not* shoot and archive we could *not* clear. As Chanan notes, a film is 'inevitably inscribed with the conditions and circumstances of its production (which also means the negative imprint of certain structuring absences)' (2007: 257). Bettina's withdrawal from further filming and denial of access to archive were the 'structuring absences' shaping what the audience sees on screen - a negative watermark removed from the film when it was finally broadcast on WDR on May 30, 2011. Although WDR and its sister stations have a seven-year license to screen the film, it has not been shown again, I suspect, due to legal complications. While the film has sold successfully around the world, Bettina's legal threats have effectively suppressed the film in Germany.⁶

⁶ An email to the WDR commissioning editor to clarify this got no response.

In all of this, we see Jameson's three levels of narrative playing out off-screen: Bettina's struggle to escape her categorisation as a function of her mother within the Meinhof myth acted out in her retrospective negotiation of her role in the film.

I stuck with the title *Children of the Revolution* as the most succinct reflection of the film but, per our agreement, the logline changed from Meinhof and Shigenobu 'seen through the eyes of their daughters' to '...journalists Bettina Röhl and May Shigenobu explore the lives of their mothers, Ulrike and Fusako...'

In contrast to Germany, access to contributors in Japan was very smooth. The only blip came at the end of the interview with former Japanese Red Army member Masao Adachi. He had been advised to refuse the interview because the title *Children of the Terrorists* was quite eccentric (it had been mis-translated): 'But I thought it was my duty to make it clear how Ms. Shigenobu and May have been living, so I came here today.'

Children of the Revolution premiered at the prestigious International Documentary Festival Amsterdam in October 2010 and was released theatrically in the UK in August 2011. It has been broadcast in eight countries and has digital distribution in North America and Australia. The film was also the focus of a workshop at INPUT, the annual conference of public broadcasters, in Sydney in May 2012.⁷

⁷ France (TF1/Histoire), Spain/Portugal (History Channel), Sweden (SVT), Denmark (DR), Finland (YLE), Australia (SBS), Gravitass Ventures (North America, Australia)

4.3 Speaking for the Palestinians

Ici et Ailleurs (Here and Elsewhere)

The challenges of making a film from another movement's perspective are no less daunting. In 1970, Jean-Luc Godard was commissioned by the Arab League to make a film about the struggle for Palestinian independence. Titled *Jusqu'à la victoire* (Until Victory) after a Fatah slogan, ten hours of footage were shot by Godard, Gorin and cameraman Armand Marco on trips to Jordan, the West Bank and Lebanon but their access within a war zone was 'tightly controlled' by their hosts (Brody, 2008).

Interviewed by Brody in 2001, Marco recalled Godard preparing elaborate storyboards before these trips and approaching the project, as Brody notes, 'like advertising: they had a message that they wanted to expound, and they decided in advance what they wanted to show in order to exemplify it' (2008: 351). Godard's guide and translator Elias Sanbar recalls him paying more attention to editing his notes with multi-coloured markers than filming spontaneously as opportunities arose. Godard would try out ideas on video and after watching them back, rewrite and re-shoot scenes with his Palestinian contributors. Brody notes 'he later left his video equipment behind for a Palestinian fighter who used home movies to restore his troops' morale' (2008: 352).

Marco outlined the theoretical questions they struggled with in adapting their cinematic language and aesthetic to the political realities they encountered:

What does it mean to film a literacy class for women, the assembly and disassembly of arms, to film a woman? How should we ask a woman to let us film her? Should we film her in close-up or not in close-up? We were trying at the same time to escape, to change, to try to understand a little bit better what was going on there – and how to film it.

(Brody, 2008: 351)

According to Godard, 'the Jordanians killed most of the film's participants in Amman in September 1970' in the Black September conflict (Lesage, 1979, cited in Dixon, 1997: 120) and Godard and Gorin spent much of the next two years editing ten hours of material but never completed the film. The rushes lay dormant until re-edited and re-titled *Ici et Ailleurs* (Here and Elsewhere) by Godard and his new collaborator Anne-Marie Miéville four years later (Brody, 2008).

Four years' distance from his original intention transformed Godard's rushes from an agit-prop commercial and newsreel from the front into an archive of images and sound recycled to critique how history is created and transmitted into the living-room. *Ici et Ailleurs* became a film about French people making a film about the Palestinians for an ordinary French family gathered around a television in the living room, with television 'mediating between two distant and remote realities' (Brody, 2008: 377).

On the soundtrack, Godard advises 'learn to see here, in order to understand elsewhere' and Miéville critiques his editorial approach and use of actors. As Dixon notes:

The resultant film...confronts the emotional, physical and historical distance between the original footage, shot in 1970, and the ways in which Godard and Miéville now manipulate these images to address issues of genocide, social injustice, theatrical presentation, and the endless contradictions and internal complications involved in creating any sound/image construct, fictive or documentary.

(Dixon, 1997: 132-3)

Godard later criticized the militant propaganda piece he and Gorin tried to make: 'All we want to say about Palestine, four years later, is that we didn't look at these shots. We didn't listen to them' (quoted in Brody, 2008: 375-6). As Brody notes, instead of making a film about what the Palestinians were saying and doing, they attempted to make a film about what they wanted to say and do.

Part of the problem was that the original Paris-based Palestinian translators refused to provide a literal translation of the rushes. As MacCabe writes, 'They found themselves time and again listening to a long and complicated speech, only for the interpreter to translate it in five words, "We will struggle until victory"' (2005: 231). Brody describes Godard and Miéville's shock when they realised Palestinian fighters 'filmed in the heated wake of failed battle' were actually discussing 'their inability to resist the superior Israeli forces and accusing their officers of sending them to their doom in hopeless combat' (2008: 375).

Godard later traced his empathy for 'exiled and oppressed people' not to his political point of view, but to his status as a filmmaker, exiled from Paris to Rolle in Switzerland and trying to survive, film by film, outside the system: 'Palestinians were people without

territory, like myself without *movie* territory. I was not allowed to work' (Sterritt, 1999: 87).

Attempts by the Baader Meinhof Group to collaborate with Palestinian fighters in training camps in Jordan in 1970 ended disastrously because the German guests showed no respect for the host culture – their naked sunbathing and co-habitation shocked and alienated their hosts (Aust, 2008). While Godard and Gorin accepted the restrictions on filming, they made little attempt to adapt or re-think their working methods or aesthetic.

Godard later admitted he was not seeing with an open mind, he was seeing what would match or fit his pre-determined script, reshooting with his Palestinian actors, where necessary. The real political situation on the ground in Palestine was rejected for the imaginary politics he had scripted before his trip in Paris. He had strayed far from the Bazinian notion of the art of the real, partially by working outside his comfort zone, with poor translation and no clear cinematic language for these new circumstances.

While *Ici et Ailleurs* still holds a certain revolutionary power, the rights are now held by Gaumont, the oldest French studio, who quoted me a license fee of 5000 euro per clip.

Red Army/PFLP: Declaration of World War

'Shooting a gun or shooting with a camera, it doesn't make a difference to me' – Masao Adachi

Godard's attempt to speak for the Palestinians has close parallels with *Red Army/PFLP: Declaration of World War*, a film shot the following year in Jordan by one of Japan's leading experimental filmmakers Masao Adachi and his regular collaborator, director Koji Wakamatsu.

In the late sixties, Adachi wrote scripts for Wakamatsu inspired by and set against the political ferment of campus occupations and protests against the Vietnam War. In 1969, he also developed a new theory of filmmaking with film critic Masao Matsuda and scriptwriter Mamoru Sasaki, while making an experimental work called *A.K.A. Serial Killer*. While travelling around Japan visiting the scenes of a young serial killer's crimes, they were struck by the oppressive, homogenous landscapes he passed through. The result was Landscape Theory - the idea that every landscape reflects its ruling power and the power relations in society - and it would inspire Adachi's later film in Palestine.

After the failure to stop the renewal of the Japan - U.S. Security Treaty in 1970, the Japanese student movement broke up and under heavy police surveillance, Fusako Shigenobu left for Palestine in February 1971. After a successful screening in Cannes three months later, Adachi persuaded Wakamatsu to go to Palestine to make a film about the revolutionary movement there. They contacted Fusako Shigenobu and she acted as a bridge to the PFLP in getting permission to film.

The aim, writes Hirasawa, was to make 'a film that showed the 'everyday life' of Arab guerrillas, and transformed a 'news documentary' into a radical text for a world revolution' (2007). Credits were collective - the opening title card read: 'Editing Collective: Red Army - PFLP'.

After the premiere in Tokyo in September 1971, the Red Bus Screening Troupe toured the country in a red bus with the film, closely monitored by the police. 'The screening itself was my cinema movement,' says Adachi (Harootunian and Kohso, 2008: 87).

But even on the alternative distribution circuit, the film found a difficult reception. 'After seeing it, people were disappointed,' recalls Adachi, 'because my newsreel is not a textbook for killing the enemy...the content was merely critical, they said...' Adachi tried to provoke debate and a new direction through self-criticism but his audience was expecting uplifting propaganda at a dark moment in the movement's history. He now accepts the film's criticism was vague: 'I needed to make clear the people's struggle. With this in mind, I went to Palestine to make the next work and start over' (Harootunian and Kohso, 2008: 88-9).

The reception of the film was no more promising in Palestine: 'I had a screening of *The Red Army/PFLP* in a refugee camp, but when they saw it, they just searched for their dead relatives who appeared in the film, and they would cry, touching the screen because they were missing the dead. *The Red Army/PFLP* is about how to be based in a mass movement, but in Palestine already the armed struggle was operating as a mass movement. So it was not necessary for them to see this film' (Harootunian and Kohso, 2008: 85-6).

In comparing his film and process with Godard's journey from *Jusqu'à la Victoire* to *Ici et Ailleurs*, Adachi notes that Godard and the PLO fell out early on over his ideas, rendering further collaboration impossible. Adachi kept an independent line but cleared his ideas with the PLO and PFLP from the start and found them 'very understanding.' As Harootunian notes, Godard was making films for a European audience, Adachi was working with and speaking directly to the Palestinians. While Godard took time to complete *Ici et Ailleurs* and state his ideas more clearly, both attempts failed because they could not adapt their voice and aesthetic to their intended audience, so the resulting films were not understood or appreciated by the cultures they sought to represent.

In 1974, Adachi set off for Palestine to make a follow-up film but the PFLP 'wanted more classical propaganda films.' He helped set up a film studio to train ordinary volunteers to make 'hard-hitting propaganda featuring crying martyr's widows and revenge-swearing sons,' classical propaganda films that were 'a nice weapon' but far from Adachi's own work' (Harootunian and Kohso, 2008: 85-6).

Adachi turned to personal diary films as a means of personal expression but in an almost continuous war-zone, progress was slow until all his footage and filming equipment was destroyed in the bombing that preceded the Israeli invasion in 1982. Since his deportation to Japan and release from prison in 2002, Adachi's work has undergone a critical resurgence. He returned to filmmaking in 2006 with *Prisoner/Terrorist*, a stark portrayal of Kozo Okamoto's imprisonment by Israel after the Lod airport attack and the Cinematheque Francaise recently held an Adachi retrospective.

Where Godard and Adachi sought to represent the Palestinians as outsiders, May Shigenobu was born in the Middle East and identifies herself as more Arab than Japanese. She continues her mother's work in Japan as a journalist, until recently highlighting Palestinian issues as a sub-anchor on a daily world affairs programme on the Asahi Newstar channel. She completed a PhD in International Media Studies at Doshisha University last year, with a thesis on the effects of Arabic Satellite News Media on Arab Societies. I will now discuss the archive images I used in my own attempt to represent these revolutionary movements from the outside.

CHAPTER 5: The Economy of Memory⁸

Archive footage and photographs are an essential element of any historical film but the conditions of access, the limits of copyright and the cost of clearance and licensing have become increasingly complicated, making archive-driven films on low budgets increasingly challenging.

In this chapter, I explore the industrial obstacles to accessing audiovisual evidence of the past and how they affect editorial decisions and representation in a film like *Children of the Revolution*.⁹ I discuss the historiography of Shigenobu, Meinhof and their movements within the context of my archive search, and the specific problems I encountered in clearing rights and licensing footage. This will lead to a more general discussion of public policy in this area, as commercial archives, filmmakers, broadcasters and consumers adapt to the digital age.

Where budgets allow, an Archive Producer is usually employed by a production to manage the archival elements of a documentary – to lead a team of archive researchers to source clips relevant to the subject, show them to the director, log their source and rights-holder and, if necessary, clear rights, negotiate license fees and order master materials for insertion into the finished film.

On smaller, independent films, it's common for a director like myself to absorb this role, searching our repositories of social memory for authentic images never broadcast before that illuminate and de-familiarise the subject without resorting to visual cliché; repeating archive used in previous productions; or cutting corners with slippages and substitutions (Chanan, 2007).

The initial search is largely dependent on the quality of the metadata and descriptions associated with relevant holdings in an archive's database. I spent many months searching for the original source of Ulrike Meinhof's most intimate and revealing

⁸ Derrida, 1996

⁹ The archive footage in *RFK Must Die* was primarily public domain material drawn from the Kennedy Library. As *Children of the Revolution* dealt with a much wider and more complicated range of material, that is my focus here.

interview before finding it listed as 'Ulrike - Konkret' rather than 'Ulrike Meinhof' in the WDR database.

Once you know which items you're interested in, you order screeners with burnt-in time code, which may need to be translated, and insert them as place-holders in your rough cut, to be replaced later, on payment of the license fee, with master footage.

All archive holdings from my period of interest were originally shot on film and many had not been viewed since the year they were recorded. Metadata for material still on film is gleaned from camera sheets, so if these are missing, a film can marked 'Jordan, 1970' may be all you have. Through the process of archive viewing, you collate a historiography of your central characters and their revolutionary movements and build a database of possible clips for your film.

5.1 Historiography of Shigenobu

We have very little visible evidence of Fusako Shigenobu's life underground and in exile until her belated arrest in November 2000. In the 'structuring absence' of Shigenobu footage, the filmic representation of her movement is best seen through the work of Masao Adachi - the fiction films he scripted for Koji Wakamatsu, as well as *Red Army/PFLP*.

In *Running in Madness, Dying in Love* (1969), a protestor takes refuge with his brother, who is a policeman. They fight, a gun is drawn, his brother's wife tries to intervene and the brother dies, so the protestor and the wife try to make it look like suicide and go on the run in the beauty of snow-clad northern Japan (Dissidenz, 2010).

Sex Jack (1970) opens with cinemascope footage of mass student demonstrations in Tokyo days before the renewal of the Japan - U.S. Security Treaty. A government mole infiltrates a revolutionary cell holed up in a small apartment as they listen to radio reports of attacks on police stations and the Communist headquarters.

Ecstasy of the Angels (1972) follows one of four rival factions within a larger revolutionary group and the opening raid on a US military base was inspired by a real-

life Red Army raid a few months earlier. The film culminates with a series of bombing raids across Tokyo, including an attack on the Japanese parliament building.

These fiction films tell us as much about the counter-culture and radical politics of the time as newsreel footage, interpreting the protest movement in freeform, anarchic narratives that play with form and content in revolutionary new ways. I use clips from several of these films to contextualise Fusako Shigenobu's story. I also licensed four minutes from *Red Army/PFLP*, which includes Shigenobu's first (non-synch) on-camera interview as well as rare footage of Palestinian fighters on the front line.

After quietly working away in the PFLP propaganda department, learning English by listening to the BBC World Service, Shigenobu was thrust onto the world stage in 1972 when three of her Japanese comrades attacked Lod airport in a PFLP operation. While the Japanese self-image was humiliated by 'the crazed actions' of its citizens abroad, within the Arab world, the Japanese were hailed as martyrs. The PFLP claimed responsibility for the attack but Shigenobu was asked to speak on behalf of her dead comrades to show the Japanese dimension. She was soon mythologised as the Queen of the Japanese Red Army - in reality a small band of Japanese radicals living communally in exile who shared PFLP aims.

Shigenobu's only filmed interview as the public face of the Japanese Red Army was given to Fuji Television in August 1973, just after the hijacking of a Japanese Airlines plane to Libya. The magazine programme *Sanji no Anata* hosted the 'scoop' in its three o'clock housewives' slot. The opening title cards read: 'Exclusive interview with Fusako Shigenobu revealing the truth about the JAL hijack. Sponsored by Lion toothpaste, Lion hair-oil, Janome sewing machine.' A Lion toothpaste jingle plays as a romantic couple smile at each other in a desert location, before Shigenobu is introduced to discuss the flaming wreckage of a hijacked Japan Airlines plane in the Libyan Desert. Her on-screen caption reads: 'Empress of JRA. Shigenobu Fusako (27).'

Fuji Television (2009) quoted me £20,000 to license one minute of this interview for worldwide use - assuming such 'highly political and sensitive' footage could be cleared - effectively suppressing it forever. State broadcaster NHK agreed to license footage of

Shigenobu's arrest in 2000 on more reasonable terms, but since her capture, prison authorities have refused to allow recorded interviews.

The clandestine nature of JRA activities and the poor preservation record of Japanese broadcasters left sizeable gaps in the audiovisual record of the Japanese Red Army. These were partially filled in 2009 when AP Archive announced a major restoration project around a 'lost archive' of 'twenty-thousand film cans containing 3,500 hours of international news footage... lying dormant for decades deep underground in the Central London bunker from which Eisenhower directed the D-Day landings' (AP Archive, 2009). The films were well preserved but the text catalogues were scattered, so AP Archive assembled a team to reconfigure the paper records and 'create a coherent online text database'.

The period covered by this newly restored collection was a perfect fit for *Children of the Revolution* and we licensed pristine new HD transfers of rare 16mm news-film sent from Japan in the late sixties at a bulk discount – footage of student demonstrations no longer held by Japanese archives.

5.3 Historiography of Meinhof

Ulrike Meinhof entered the field of cultural production in the late fifties when her writing and speeches within the student anti-nuclear movement brought her to the attention of konkret editor Klaus Rainer Röhl, whose influential magazine was secretly funded by the East German Communist Party. Röhl gave Meinhof the platform of a regular column in 1959, providing her main outlet of expression for the next ten years.

Meinhof married Röhl and gave birth to twin-daughters Bettina and Regine in 1962. She quickly developed into the star-columnist and opinion-leader for konkret, with provocative articles like *Hitler Within You* (1961) detecting Nazi echoes in the fascist tendencies of Defence minister Franz Josef Strauss.

As Meinhof's symbolic capital grew, she diversified into television, making three short films on social issues for NDR in 1965 and several radio features. Her first appearance in front of the camera came on WDR's *Hier and Heute* political discussion programme in 1965. It's interesting not so much for what she says – on an obscure topic not

relevant to my film – but as an opportunity to observe Meinhof in wide shot, smoking, listening and thinking, an incongruous young woman with a panel of three older men.

Roman Brodmann's film, *The Police State Visit* (*Der Polizeistaatsbesuch*, 1967) captures the baroque preparations for the visit of the Shah and his wife to Berlin in June 1967, and the anti-Shah demonstrations that prompted his henchmen to beat student protestors with sticks as German police stood by, taking pictures of demonstrators.

The police shot student protestor Benno Ohnesorg dead that night, igniting the 1968 movement in Germany. After a ferocious open letter to the Shah in konkret, Meinhof was invited to make a film about the Shah's disastrous visit to preface a televised debate in February 1968, wedding the voice of her column to images from Brodmann's film:

Protests against the head of a police state revealed our own state to be a police state. The police and media terror hit its peak on June 2 in Berlin. We saw that freedom in this state is freedom for the police truncheon. And freedom of the press in the shadow of Springer Corporation is freedom to justify the truncheon.

(*Bessere Demokraten oder Anarchisten*, 1968)

In the ensuing studio debate, five men in suits sit slumped around a convex table as the charismatic Meinhof assails them, in medium close-up, on behalf of the APO (Extra-Parliamentary Opposition), a student alliance demanding freedom of expression from a government enacting emergency laws to clamp down on street demonstrations:

I definitely don't consider the streets a very suitable means of making our views known. But if we have no further options...If we don't have 1-2 hours of TV time once or twice a week to say what we think. If we don't have Springer's millions of papers, magazines; if we face bans whenever we try to meet and talk in public...

(*Bessere Demokraten oder Anarchisten*, 1968)

Meinhof knew access to the 'public space' (Bourdieu, 1998: 46) through television was far more effective than street demonstrations but, denied a weekly slot and a channel of diffusion, she soon pursued a more extreme strategy, as foreshadowed in the television debate: 'We support those seeking freedom from terror and violence. If war is their only means, we will support that war.'

On May 5, 1968, she published her most famous column, *From Protest to Resistance*, marking a turning point in her move from revolutionary theory to practice: 'Protest is when I say I don't like this. Resistance is when I stop what I don't like' (2008: 239).

In early 1969, Meinhof published her final column, *Columnism*, analysing her role as konkret's star columnist and her battle with her editor and former husband Klaus Röhl to move from an individual voice to collective action:

Columnism is a personality cult. Through columnism, the left-wing position that was developed...in the move from theory to practice in the summer of 1967...is reduced...to the views of an original, outrageous, nonconformist individual, who can be co-opted because in being alone they are powerless.

(2008: 251-252)

Just as Godard turned from auteur cinema towards the collective practice of the Dziga Vertov Group, so Meinhof rejected the brand leadership imposed on her by konkret in its drive to trade radical chic and progressive editorial for lucrative advertising space and a profitable niche within the existing capitalist model.

Meinhof attacks Röhl's refusal to turn over editorial space to a collective of APO writers because it would dilute his power and makes a clean break with the paper: 'We do not want our subjugation to market demands to be presented as free journalism...It is opportunistic to claim to be struggling against the conditions that one is actually reproducing' (2008: 253).

A *Panorama* report from May 1969 shows Meinhof leading a student group from Berlin to Hamburg to attack the offices of konkret, and, when that fails, to trash her former home with Klaus Röhl. Yet behind the brash public image, Meinhof cut an isolated figure - a single mother in Berlin, alone with her twins and torn between private life and political action - as seen in her most personal and revealing interview, a short feature for WDR's *She - Journal for Women* (1969) broadcast eleven days after the attack in Hamburg and the first clip of Meinhof we see in my film:

A problem that every politically active woman faces, myself included, is that she works for society, she has the right ideas, maybe knows, how to talk, write, take action...but she is as disarmed with her children, as all women are.

As the German Left tried to politicise inmates in state-run young people's homes, Meinhof developed a radio documentary, *Jynette, Irene and Monika* (1969) about three girls in a juvenile home into *Bambule* (1970), a subversive teleplay about a riot in a girls' home. Meinhof defines the concept of *Bambule* in an expressive commentary in the radio piece:

Bambule means rebellion, resistance, counter-violence, attempts at liberation that mostly end with police intervention and punishment of the instigators and spokespersons, and terror-headlines in [the press]...Explosions of suppressed needs, reactions to an education system, whose violent methods of coercion turn youths into outcasts...

(Quoted in Aust, 2008: 53)

After Baader's escape from prison in May 1970, Meinhof went on the run and the broadcast of *Bambule* was cancelled by SWR and not shown until 1997.

Now part of a collective, Meinhof wrote the RAF communiqués, no longer in her name but still in her voice, typed in lower-case letters to cement her anti-authoritarian stance. Drawing heavily on Mao and setting out 'the urban guerrilla concept', these were photocopied and circulated in the alternative press as state media controlled the emerging narrative around the hunt for Meinhof and her comrades. An opinion poll around this time found that twenty per cent of the population in Hamburg would consider sheltering a member of the RAF for the night, if asked (Aust, 2008).

Erika Runge, one of Germany's leading documentary directors, got the chance when the hardly recognisable Ulrike, a friend from student protest days, turned up at her door one afternoon. After sheltering Meinhof, Runge's phone was tapped and commissioning editors blacklisted her. The habitus of the progressive filmmaker was never to turn away a fallen comrade. The doxa of the commissioning editor and broadcaster was that you could not be seen to support terrorists. Runge's programme proposals were now universally rejected, so she retrained as a psychotherapist.¹⁰

Public sympathy for what Heinrich Boll termed the war of 'six against sixty million' (Aust, 119) waned after a series of deadly bombings in April 1972, followed by the arrest of the RAF leaders. One of my most valuable finds in the archive from this

¹⁰ Author interview with Erika Runge, 2009

period was an extraordinarily frank interview with Meinhof's ex-husband Klaus Röhl on a late-night WDR talk-show (*Je später der Abend*, 1973). Sitting in a TV studio two kilometers from Meinhof's prison cell on her thirty-ninth birthday, he describes her mistreatment in an isolation cell and the effect of her imprisonment on the children.

After Meinhof's death in 1976, Stefan Aust - a protégé of Meinhof and Klaus Röhl at konkret, who rescued Bettina and her sister from the RAF in Sicily - made the first documentary about her, *Death in Stammheim*, and has dominated coverage of the RAF in the German media ever since.

Aust made a documentary on the RAF based on his book *The Baader Meinhof Complex* in 1985 and as editor of Der Spiegel, he commissioned a feature on Meinhof from Bettina and Regine Röhl in 1995. A major two-part documentary, *Die RAF* (2007) also preceded the release of the big-budget film of his book, and included audio recordings of the trial of the RAF prisoners, suppressed by the state since the mid-seventies.

The Baader Meinhof Complex movie (2008) eviscerates the theory of Meinhof for the all-action nihilism of Baader. Bettina and her sister successfully pressured Aust to excise much of their story from the script to protect their privacy.

Rights Clearance

Modern privacy and copyright laws make clearing archive material time-consuming and problematic, and this was particularly true with the German archive. Contributor and crew agreements in 1970s Germany did not foresee programmes being resold in the future, so clearing permission from key contributors retrospectively is tricky. It's WDR policy to contact the original commissioning editor for permission and advice, and contact information for contributors; or failing this, to gain clearance from their successor. This takes time and they are also wary of breaching modern privacy laws or triggering residual claims by the original crew or contributors.

For these reasons, I could only clear the WDR footage in my film for television use, as it was felt broadcasting was the original intention of the programme - sales and distribution in other formats were not foreseen or explicitly agreed to. Hence, the television version of the film is four minutes longer than the version released in other

media. Cutting the most personal and revealing WDR interviews with Meinhof and Klaus Röhl alters the family dynamic of the story and the pivotal moment where Meinhof chooses revolutionary action over her responsibilities as a mother is lost. These cuts were unavoidable but make the DVD version a different film.

Licensing Costs

A BBC commission allows you free use of their archive for domestic broadcasts, which gives a filmmaker like Adam Curtis tremendous scope for his authored mash-ups on weighty psycho-historical themes. On the downside, none of Curtis' documentaries will ever be broadcast outside the UK or released on DVD because the cost of archive and music clearance would be enormous. To counter this, he personally endorses online bootlegging of his BBC broadcasts.

WDR and its sister stations in the ARD network operate a similar archive-sharing agreement for German filmmakers. They have a shared database and waive domestic license fees between sister stations, charging a flat 150 euro clearance fee for each programme used. Clearance gets complicated when you want to license archive for worldwide distribution in the normal cycle of film festivals, theatrical release, DVD/video-on-demand and all forms of television. Each of these distribution windows is classified as a separate licensing use, which must be paid for. The longer the term of the license and the more territories you need to clear, the more it costs (sales agents usually require a minimum five-year license period worldwide).

The cost of licensing archive is thus a major line item in any independently-produced historical documentary but it's notoriously difficult to budget archive-driven historical films because you only find a creative balance between interviews and the amount of archive material you need in the edit. You can only negotiate a discounted deal with an archive when you know how much of their material you need, and you only know for sure which territories to clear as sales are made after the completion of the film.

The simplest way to clear archive for blanket, unrestricted use is a ten-year license for all media worldwide but rate card prices for this start at £4,000 - 5,000 per minute. As over half my film is made up of archive footage, paying rate card would have exhausted my entire budget, so a lot of my time was spent doing deals and finding creative ways

around this. A couple of examples illustrate the gulf in understanding between archives and producers regarding the commercial realities of a creative documentary.

Some of the key Meinhof footage owned by NDR and ARD News is licensed through Studio Hamburg, the archive division of a major German studio. When I finished the film, my only guaranteed broadcast was on WDR, so I planned to license the ARD archive under the ARD archive-sharing agreement initially, and then license for world use later when I got a sales agent and they began to sell the film internationally.

Studio Hamburg refused to clear just for Germany, fearing I would take the master footage and run. They insisted I clear my home country (the UK), negating the benefit of the German arrangement. As they knew it was premium footage I couldn't get elsewhere, there was no negotiation on price. I could either pay 2,500 euro per minute for UK rights or 5,000 per minute for world rights or I wouldn't get the footage.

When I complained about this to my co-producer at WDR, it got very political, as NDR is a sister channel and both are regular clients of Studio Hamburg. I was trapped. Either I compromised the film by cutting the iconic footage of Meinhof or I paid the going rate. My co-production agreement with WDR gave ARD channels a seven-year unlimited license to screen my film, so I ended up paying more than half the co-production funding back to ARD channels in archive licensing fees.

Once the film started selling internationally, it was instructive to compare the sales reports to what I'd paid for archive footage. I was very pleased to license pristine footage from a Scandinavian broadcaster at a fraction of their normal rate, but I later learned they acquired my finished film for twice what I'd paid them for one minute of archive.

The critical misalignment between the price of archive footage and the acquisition prices paid by broadcasters is the biggest challenge facing historical documentaries today. As we have seen, the ownership of the images to tell Ulrike Meinhof's story are closely guarded by family, rival authors, major studios and publishing houses, all controlling the conditions of use and trying to maximise profits. Without the economic capital offered by a commissioning broadcaster, it's becoming increasingly difficult to tell these stories with fresh archive that reinvigorates the subject and overturns the clichés of the genre.

5.3 Commercial Archives in the Digital Age

According to a 2010 report by Screen Digest, nearly 43 million hours of content are held in the world's archives, generating €430m in revenue in 2009, with television producers accounting for 55 per cent of sales. The report highlights digital asset management, metadata and customer access portals as key areas to be addressed in improving the accessibility of archive material. 61% of archive content has been made available online but just 21% has been cleared for licensing (Harvey, 2010).

The interests of commercial archives are represented by FOCAL (The Federation of Commercial Audio Visual Libraries), who estimate the UK's commercial audiovisual archives contain over 17 million hours of footage, generating sales of over £112 million in 2011 (Best, 2012a).

In November 2010, just as I finished my film, David Cameron announced an independent review, chaired by Professor Ian Hargreaves, of how the UK's Intellectual Property framework supports growth and innovation. Hargreaves was previously editor of the Independent and director of BBC news and current affairs.

The Hargreaves Report, published in May 2011, made ten major recommendations to modernise UK copyright law in the commercial digital age and 'enhance the economic potential of the UK's creative industries' while ensuring digital innovation was not impeded by overprotection (IPO, 2011). While FOCAL welcomed new measures to protect and police copyright, they warned two of the most contentious recommendations could cause the death of the commercial archive industry.

Extended Collective Licensing

One of Hargreaves' key proposals was the creation of a cross-sectoral Digital Copyright Exchange (DCE) to streamline the licensing process: 'a digital market place where licences in copyright content can be readily bought and sold, a sort of online copyright shop' (IPO, 2011).

The DCE would operate on the principle of Extended Collective Licensing, where third-party material is licensed from a standardised rate card through a collection

agency and channelled back to its rights owner. The model for this is the music industry, where PPL and PRS administer recording and publishing rights from a centralised database on behalf of record labels, performers and songwriters.

As more than 80% of archive footage is licensed for cross-border use, Hargreaves argued that by making cross-border licensing easier, the DCE offered 'clear benefits to the UK as a major exporter of copyright works' in more open, efficient markets (2011: 8).

In their consultation submission, the BBC welcomed such an integrated copyright licensing regime 'which reflects the needs of a digital converged world – a world increasingly dominated by high volume, low value transactions as opposed to the low volume, high value transactions which were a feature of the analogue era' (Hooper, 2012: 4).

While industry body FOCAL welcomed easier access to digital content through a centralised database - which could share and build metadata and help rights owners track copyright infringement - FOCAL lawyer Hubert Best strongly opposed extended collective licensing, arguing 'it would destroy archives' exclusive control of much of their footage [and] thus their ability to set the price and control the sales' (2012b: 7). Premium pricing would be replaced by a flat fee minus the collection agency commission, reducing income.

The government accepted Hargreaves' recommendations and asked Richard Hooper to lead a feasibility study into the DCE. Hooper's call for evidence was framed around the Hargreaves Hypothesis that 'Copyright licensing...is not fit for purpose for the digital age' and highlighted the cost of licensing, difficulty of access and 'the misalignment of incentives between creators, rights owners, rights managers, rights users and end users' as key issues which 'deprived [the public of] access to a significant amount of commercially and culturally valuable content' (2012: 21, 25). The hypothesis claimed 'UK GDP should grow by an extra £2 billion per year by 2020, if barriers in the digital copyright market were reduced' (Hooper, 2012: 53).

Hubert Best's detailed response stressed increased digital access 'is a factor of investment' (2012a: 4). As of 2009, 40% of archive content was held on digital tape

and 10% on other HD sources; 20% was still on film and the rest was on analogue tape format. Best notes, 'archive footage which is held in analogue formats must be digitised, sometimes restored and/or preserved, and metadata must be created, to enable digital access. In the commercial archive sector, this is funded commercially out of sales/licensing' (2012a: 4, 6).

The broadcast market is depressed, so archives see growth coming from digital markets - like video games, smartphone applications and Internet virals - and reinvest sales revenue to generate more digital content. Premium pricing drives increased digital access and the slow pace of digitisation is due to 'downward pressure on footage licence prices in the industry in recent years (from reduced production budgets, 'fair dealing' of footage where this is not legally justified but is uneconomic to pursue, and new BBC acquisition licensing practices)' (Best, 2012a: 4, 6).

Television is now watched across multiple platforms and time-shifted using iPlayer or Sky+ devices. Where previously, these ancillary platforms were priced separately, now the BBC requires producers to license a package of 'Public Service Rights' for blanket BBC use across all platforms. Best notes that as 'the largest commissioner of reused archive content...the BBC's market position is such that it could in effect impose this arrangement on commercial archives,' resulting in a 20% drop in primary sales income that has hit the industry hard (2012a: 3, 7).

Widening copyright exceptions

FOCAL also vehemently oppose the widening of 'fair dealing' exceptions to copyright proposed by Hargreaves. Best argues archive footage is sold mostly in short clips under 30 seconds, so 'allowing marginally more use free of charge would affect footage archives disproportionately...[and] undermine incentives to produce digital content and make it available for digital consumers' (2012b: 3-4).

In the UK, Section 30 of the Copyright, Designs and Patents Act 1988 allows for certain copyright exceptions for the purposes of criticism or review, and reporting current events, provided the source is acknowledged and the work is publicly distributed. Such 'fair dealing' also depends 'on the extent of the use...the importance

of what has been taken...[and] the degree to which a use competes with exploitation of the copyright work by its owner' (HM Government, 2012: 14).

Godard pioneered the principle of 'fair dealing' with the first two episodes of *Histoire(s) du Cinéma*, made on a very small budget for Canal Plus in 1989. Quoting liberally from myriad films, photos, texts and pieces of music to illustrate a personal history of cinema, Godard claimed his 'citations' were for science and scholarship, not commercial use, and so could be used for free. Co-producer Gaumont indulged him and other rights holders 'knew that no one would do anything to Godard' (Brody, 2008: 516).

Mark Cousins took the same approach with his recent 15-hour series *The Story of Film: An Odyssey* (2011), 'fair dealing' hundreds of film clips from commercially available DVDs while clearing permission, often personally, with the filmmakers. Experienced archive researcher James Smith worked on the series and, writing in the FOCAL newsletter about 'archive film's hottest topic', was won over to the legitimacy of 'fair dealing' in the educational context of such a 'film-school masterclass':

If *The Story Of Film* had gone the conventional route and sought licences for every feature film clip, the budget would have been in the millions – many millions. Even then there would have been inexplicable refusals, lawyers demanding ridiculous fees for the estates of long dead third parties, all the usual pitfalls that would have led to multiple and tragic omissions in the story.

Fair Dealing is a fact, and it is used perhaps more than it should be...but if it is used for true journalistic reasons rather than an excuse to save costs on the wallpaper, then this film wins the argument over the law's existence hands down.

(Smith, 2012: 8-9)

The 'fair use' provision of US copyright law offers slightly wider exceptions than 'fair dealing' and was aggressively used by leading Hollywood attorney Michael Donaldson to clear over 900 video clips for eight films screened at Sundance in 2011 (Lindsey, 2011). In 2005, Donaldson helped The Center for Social Media (CSM) draft a 'Documentary Filmmakers' Statement of Best Practices in Fair Use' to protect filmmakers' 'free expression within copyright law' (CSM, 2005: 1), sparking a surge in the use of the practice. The statement notes:

...Judges decide whether an unlicensed use of copyrighted material is 'fair'... [and] generates social or cultural benefits that are greater than the costs it imposes on the copyright owner...[As documentaries] typically quote only short and isolated portions of copyrighted works...judges generally have honored documentarians' claims of fair use in the rare instances where they have been challenged in court.

(CSM, 2005: 1)

My sales agent for *Children of the Revolution* barred fair-dealt material because the principle of 'fair dealing' is not universally accepted and interpretation varies by jurisdiction. But the CSM statement claims 'fair use' can be applied to historical documentaries, given their 'social and educational importance' as long as:

The material serves a critical illustrative function, and no suitable substitute exists; the material cannot be licensed, or...can be licensed only on terms that are excessive relative to a reasonable budget for the film in question; the use is no more extensive than is necessary to make the point for which the material has been selected; the film project does not rely predominantly or disproportionately on any single source for illustrative clips; the copyright owner of the material used is properly identified.

(CSM, 2005; 6)

AP Archive's Alwyn Lindsey finds this statement 'deeply flawed' and one-sided, using 'idealist language about freedom of expression...to justify extensive and creative Fair Use in situations where the practice is purely about avoiding the payment of licence fees and maximising profits for content users' (2011: 11-12).

Filmmakers are not required by law to disclose 'fair use' to a rights holder, so Lindsey advocates 'a truly inclusive code of conduct that addresses the rights of all stakeholders – users and content owners alike...[and] a 'Fair Use/Fair Dealing Registry' where broadcasters obligate their producers to post their Fair Dealing claims so that rights holders...have an opportunity to challenge the use if they believe it to be outside of the exemption rules' (2011: 12).

As production budgets fall, Hubert Best says misuse of 'fair dealing' is a major problem. As only the largest archives can afford the expense of a complex infringement action, he fears widening copyright exceptions will 'open the floodgates' to much wider abuse (2012a, 8).

A commercial archive will only digitise content and invest in storage and metadata creation if it expects to make a commercial return. Faced with free re-use of archive, Best argues digitisation would stop and archives would withhold their footage offline and 'kill the digital supply' (2012a: 7).

Summary

In its final response published December 20, 2012, HM Government announced plans 'to create a more general permission for quotation of copyright works for any purpose, as long as the use of a particular quotation is 'fair dealing' and its source is acknowledged' (2012: 4). This 'will remove unnecessary restrictions to freedom of expression and comment and will better align UK law with international copyright standards (2012: 28).

Addressing commercial archives' concerns, the response states a fair dealing exception 'will not apply if the use of such a clip would conflict with its normal [licensed use] or cause unreasonable harm to rights holders...particularly if the licence is easily available on reasonable and proportionate terms' (2012: 14, 27).

The UK's creative industries account for three per cent of the economy and are now working with Richard Hooper to create an industry-led Copyright Hub to collate, identify and license copyright works in a more user-friendly and cost-effective manner (HM Government, 2012).

Participation will be on a voluntary basis, with an opt-out provision for rights holders but FOCAL still insist the measures are 'constitutionally improper' (Best, 2012c, 2) and erode property rights protected under European human rights law - an ECL body 'would artificially distort the market for the rights since its rates would become the de facto standard against which negotiations would take place', notes Best, seriously weakening the creator's economic right 'to control the use of his own property and negotiate the price at which he is prepared to license it' (2012c, 8). Best sees legal challenges to these new provisions as 'inevitable' (2012c, 9).

In this atmosphere of suspicion and distrust, archives and filmmakers need to forge a better understanding of each other's commercial realities. Alwyn Lindsey's joint code

of conduct may be a starting point but his 'Fair Use/Fair Dealing Registry' would only entrench the power of broadcasters and archives and further complicate licensing.

Lindsey cites 'the creation of programming based on Fair Dealing exemptions' as 'another worrying trend' (2011: 12) - *Room 237* recently employed 'fair use' to critique multiple conspiracy theories around *The Shining*. In the current climate for creative documentaries, this seems to me a valid strategy to enable films of cultural and historical value that otherwise could not be made.

The key issue is price. Asked to justify why rights are so expensive, Best said price is determined by their fair market value. He claims 'the vast majority' of archive content is 'generic content which can be accessed from a number of sources,' creating price competition among suppliers and driving down prices (2012a, 3).

This is not my experience. Many creative documentaries draw on archive that is not generic and draws heavily on one collection or clips from specific films. Public broadcasters like the BBC may give a 10% discount for several minutes of footage but they generally price re-use of their publicly funded programmes out of the range of most independent productions. They should show a more flexible approach to low-budget films of cultural value.

Just as PACT and Equity have low-budget agreements for feature films with budgets under £3 million, reflecting the scale of a production, so archives should acknowledge the vast differences in what clients can pay. The current one-price-fits-all approach to filmmakers, irrespective of their budget and commercial potential, actively discourages films on history that don't fit the commissioning priorities of broadcasters. I'm in the same boat as *Senna*, produced by Universal and Working Title.

Hubert Best acknowledges that some archives offer reduced license fees in return for a share of profits (2012a). More flexible arrangements like this are needed to help archives and independent producers agree a fair commercial deal for licensing rather than exploiting 'fair use' out of budgetary necessity.

CHAPTER 6: Concluding Discussion

6.1 Reception in Japan

In December 2011, *Children of the Revolution* was invited to screen in the regular film series of the Tokyo Foreign Correspondents Club and I returned to Japan to seek distribution. My wife is Japanese and I lived there for two years after college, so it's important for me that the taboo story of the Japanese Red Army can be seen and discussed there through my film.

We prepared Japanese subtitles and the screening was followed by a press conference with May Shigenobu and myself. After the earlier mis-translation of *Children of the Terrorists*, I was heartened to see Masao Adachi and he congratulated me on the film.

The most interesting part of the trip, however, was a screening to a hundred undergraduate students at Doshisha University in Kyoto the next day. I had been invited by a Professor of Journalism to show a shorter version of the film and give a brief talk afterwards. The professor had supervised May Shigenobu's PhD.

It became clear from the feedback of the students that the idea of student protest and standing up for what you believed in was interesting – Fusako Shigenobu's student activism against the Vietnam War and hikes in student fees were issues they could relate to. But their parents had always told them Shigenobu and the Japanese Red Army were evil people, who brought shame on Japan, and they had never had the opportunity to hear about her story for themselves.

State broadcaster NHK may occasionally air a very conservative history of the Japanese Red Army but there is, perhaps surprisingly, no documentary available on DVD in Japan that gives an alternative view of the group, their aims and their history.

As the screening was open to the public and the Red Army once had strong local support, some of Shigenobu's supporters from the sixties and seventies were scattered in amongst the students. They watched the rediscovered AP Archive footage of student demonstrations in the late sixties - images no longer available in Japan – and compared their struggle to what happened in Germany and the Middle East. As the daughters of

Meinhof and Shigenobu told their mother's stories, two generations debated the subject in a classroom in Japan's ancient capital.

It was a symbol of the film's potential to educate young Japanese about the history of political protest, as the nuclear disaster at Fukushima was inspiring the first large street demonstrations in Japan since the seventies.

When I returned to Tokyo, I had several meetings with distributors, who agreed the subject was timely but wondered how we could market the film to the younger generation. One distributor - Japan's most experienced producer of political documentaries - said that after opening in major cities, the key to a successful release was the non-theatrical circuit - screenings in local community halls where local activists could discuss the film with the director or May Shigenobu afterwards. This is the screening culture of the Japanese political documentary movement, as created by Shinsuke Ogawa back in the sixties and emulated by the Red Bus Screening Troupe.

Back in London, I got interesting feedback from a representative of NHK who attended the Tokyo screening. She told my sales agent Electric Sky the film would work well in Japanese theatres 'but would need adjustments (which perhaps may not be favored by May and Shane) for TV broadcasting in Japan':

My biggest concern is that the "Fusako side of the story" although being very interesting, seems rather biased, desperate to tell that Fusako is not what she is told to be. Of course, being a family member, that is very understandable, however it seems to lack a "third person point of view". Considering what has happened by and within the Red Army, in order to be accepted by the Japanese viewers, I think it needs to be more balanced...Anyways, it was a great film, and was a pleasure being able to hear stories from May and Shane.

(NHK, 2011)

Although I was open to possible changes, this did not progress any further but after long negotiations, we have just secured a Japanese distributor, who will release the film on fifteen screens in Japan next summer.

6.2 Conclusion

In the production of these films, I quickly adapted to the objective conditions and power relations of the subfield of documentary production, learning the ‘rules of the game’ in pursuing the elusive symbolic and economic capital that helped me finance and diffuse these original takes on meaty historical subjects.

The issues discussed in this paper show the cultural, historical, political and psychological dramas embedded in the production of any creative documentary. Jameson’s second level of narrative is encoded in the film but most visible to those who’ve been through the process.

The historical subjects of these films impose weighty public perceptions to be de-familiarised and overturned – political subversives demonised in popular culture as nation-hating ideologues or cartoonish gun-toting radicals, and mythologised in vacant grand entertainments like *The Baader Meinhof Complex*. I have tried to reframe our categories of perception towards these subjects by fusing the personal and the political, the emotional and the historical – my own investigative journey to understand a false conviction and two daughters’ perspectives on their revolutionary mothers.

My research across both films was meticulous and tailored to the narrative perspective, exploring a diverse array of strategies a documentary filmmaker can use to re-investigate and re-present the lives of political subversives mythologized by the state. I have shown that on politically charged subjects like these, state narratives and traditional historical sources cannot be trusted. Lane, de Antonio and Watkins have shown the importance of challenging conventional wisdom by declaring your hand to the viewer while keeping a self-reflexive grasp on how preconceptions colour your reading of historical evidence.

The research and writing of documentaries are overlooked and undervalued, and integral to overturning popular misconceptions. The films of Charles Ferguson prosecute U.S. failures in Iraq and on Wall Street (*No End in Sight*, *Inside Job*) with coruscating intellectual power born of impassioned research. Ferguson’s meticulous preparation gives him authority and command in interviews and the power to surprise a complacent contributor, exposing the softball nature of conventional documentary interviews.

Trained as a political scientist, Ferguson's experience in Washington and independent wealth as a software entrepreneur give him extraordinary editorial independence to make the films he wants and extraordinary access, because he comes from the world of his contributors. He is free of the constraints of his field of production and makes the drama of making the film and overturning the documentary rules of engagement explicit in the text itself. His contributors grow visibly rattled by his respectful irreverence as he asks politically sensitive questions they've never been asked before.

In eliciting credible witness testimony, we can learn lessons from interview techniques used in other disciplines – how police officers and investigators approach witness testimony; how focus groups respond to non-verbal signals in political debates; and how testimony is received by the audience and contextualised onscreen.

Audiovisual evidence can give us valuable information about a crime scene but is contingent on perspective, authenticity, supporting witness testimony, image/audio quality and the contextual information we have to interpret the data. Constraints of time or resources in the race for a 'scoop' may cause a 'rush to judgement' and a premature evaluation of the evidence before all avenues of investigation are exhausted. Government investigations with subpoena power like the HSCA are the most rigorous mechanism for interpreting audiovisual evidence but their findings must be integrated into the cultural memory through responsible documentaries and other media.

The work of MacDougall and Ruby in ethnographic filmmaking tells us a lot about the separation and integration of the documentary voice – self and other, filmmaker and subject, and their relation to the viewer. To make a film from another's perspective, we must search for a participatory framework that liberates the voice of the subject and keeps the editorial authority of the filmmaker transparent and open to negotiation.

Archive-driven films are only possible on low budgets, if subsidised by cultural funding or a major broadcaster; or primarily working with 'public domain' or 'fair use' material. The cost ratio of commercial archive to the price paid for a creative documentary is not a sustainable business model – 'sliding scale' pricing structures would encourage historical documentaries that utilise our cultural heritage.

Hargreaves (2011) argues that copyright law should be liberalised and extended collective licensing implemented to standardise prices and simplify the licensing process. The commercial footage industry argues that it will only invest in digitisation of its archive materials if its exclusive copyright and right to premium pricing are protected. While digitisation increases the pool of historical evidence, such premium pricing limits its use and inhibits the distribution of archive-driven work like mine.

The rise of crowd-funding platforms like Kickstarter and Indiegogo offer an alternative pitching forum, seemingly independent of Bourdieu's model. The filmmaker bypasses the commissioning editor and pitches directly to their nascent audience online. A successful campaign can quickly build a fan base and validate the commercial potential of the project. Is this an escape from the domination of the television? Well, not yet.

The five-figure sums filmmakers pitch for online are not enough to fully fund a film. They may pay for post-production; clear archive and music rights; or pay distribution costs – channelling money from the consumer back to major rights-owners, reinforcing the existing structures of the field. Having funded early work on the film themselves through grants or personal debt, the filmmaker will still fall into the arms of the commissioning editor when the film is completed, as they cherry-pick the most popular projects on Kickstarter and pay much less for acquisition than an original commission.

After a lot of hard work, crowdfunding may simply replace co-production funding from a European broadcaster, who buy the film for a pittance later on. While the film's online fans will help drive direct digital sales, in the short term, television money still drives the economy of the subfield of documentary production. Only new mechanisms of crowd-distribution can truly empower filmmakers and overturn the status quo.

My critical reflection on these films has helped me situate my work within the existing critical discourse around the political documentary, history on film and media ethics; find a theoretical rationale for what were previously intuitive aspects of my practice; and learn from historical case studies that speak to my experience.

I have a deeper appreciation for the subjectivity and self-inscription of the filmmaker in the text; the psychological dimension of the negotiation between filmmaker and subject, with its subtext of control, authority and authorship; and the politics of memory, with its fruitful dialectic between image, sound and text as fragments from the archive work with subjective personal memories to create powerful narratives with a strong contemporary resonance.

I strongly believe that the films in my portfolio and this extended analysis of my process present an original contribution to knowledge in the field of documentary and a coherent body of work meriting the award of a PhD.

APPENDIX

Science and the Zapruder Film

While I agree with Stone and Chanan that the head-snap ‘back and to the left’ in the Zapruder film clearly indicates the fatal shot came from in front of Kennedy, media commentators and documentaries repeatedly turn a blind eye to this visible evidence of conspiracy and conclude all the shots came from behind. How can this be? Does the camera lie? Can we trust the apparent truth of a motion picture? Or does the illusion of movement created by the motion blur of twenty-four still-frames per second deceive us with an optical illusion that can be explained away by scientific analysis?

In 1975, CBS News asked ITEK Corporation, ‘world-renowned for film analysis’, to study the original negative of the Zapruder film scientifically, ‘using the best modern techniques and equipment.’ In his lead-in to the study, Dan Rather summarises ‘the theories of critics based on films’ as: ‘How could a man struck by a bullet from the rear possibly move so violently backward? It is, they insist, against the law of physics.’ Rather admits, ‘The Zapruder film does indeed show the President lurching backward after moving forward. This is what the unaided eye sees’ (*A CBS Reports Enquiry: The American Assassins, Part 1*, 1975).

After studying the film, John Wolfe, President of Optical Systems at ITEK explains that ‘when the [fatal] bullet struck, the President’s head moved forward with extreme speed, almost twice as rapidly as it subsequently travelled backwards’. Then Wolfe and Rather have this exchange:

Wolfe: ‘In the three frames following 313 [the fatal shot], he reverses direction and came back to where he was before. It took him three frames to do it, so he’s moving considerably slower coming back than he moved forward.’

Rather: ‘No matter how many times you look at it, that’s not the impression that one gets, just sitting in a room and looking at the film. The very clear impression is that his head jolts backward faster than it went forward.’

Wolfe: ‘That, of course, is the whole point of...applying this kind of technique... to get away from the subjective impressions that are developed by looking at a blurred motion picture. My answer to your implied question is, I don’t know what I see, I know what I measure.’

(*The American Assassins, Part 1*, 1975).

Rather concludes: 'What ITEK measured in head movements is an important indication that the fatal shot struck President Kennedy from behind.'

Rather's willingness to surrender his own 'very clear impression' to a scientific expert is striking. Doubters immediately questioned the objectivity and ulterior motives of ITEK, a major defence contractor who had worked closely with the CIA, providing camera systems for spy satellites. As the CIA was running an operation to counter critics of the Warren Report at the time, ITEK, in conducting the study pro bono, had a major conflict of interest.

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NOTES ON PORTFOLIO

Please find the following films enclosed:

- RFK Must Die: The Assassination of Bobby Kennedy (2008)
- Children of the Revolution (2010)
- RFK Must Die Epilogue (2008)
- BBC Newsnight segments (2006, 2008)

A copy of my book *Who Killed Bobby?* is available for reference in the Department of Media, Culture and Language in hardback or as a PDF.

Associated websites for these works may also be useful:

www.rfkmustdie.com

www.whokilledbobby.net

www.childrenoftherevolution.co.uk